

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 1414
Committee Substitute Favorable 6/7/04
Third Edition Engrossed 6/8/04
Senate Finance Committee Substitute Adopted 6/15/04
Senate Appropriations/Base Budget Committee Substitute Adopted 6/22/04**

Short Title: 2004 Appropriations Act.

(Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL
APPROPRIATIONS ACT OF 2003 AND TO MAKE OTHER CHANGES IN THE
BUDGET OPERATIONS OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

Requested by: Senators Garrou, Dalton, Hagan

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

Requested by: Senators Garrou, Dalton, Hagan

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2004."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

Requested by: Senators Garrou, Dalton, Hagan

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1.(a) Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2004-2005 fiscal year.

	2004-2005
1 Current Operations – General Fund	
2	
3 EDUCATION	
4	
5 Community Colleges System Office	32,702,234
6	
7 Department of Public Instruction	18,976,723
8	
9 University of North Carolina – Board of Governors	51,389,926
10	
11 HEALTH AND HUMAN SERVICES	
12	
13 Department of Health and Human Services	
14 Office of the Secretary	(3,771,398)
15 Division of Aging	3,381,000
16 Division of Blind Services/Deaf/HH	(30,000)
17 Division of Child Development	7,925,000
18 Division of Education Services	(152,927)
19 Division of Facility Services	(450,000)
20 Division of Medical Assistance	(85,679,913)
21 Division of Mental Health	(2,462,273)
22 NC Health Choice	8,800,000
23 Division of Public Health	7,551,581
24 Division of Social Services	(7,111,948)
25 Division of Vocational Rehabilitation	(1,479,294)
26 Total	(73,480,172)
27	
28 NATURAL AND ECONOMIC RESOURCES	
29	
30 Department of Agriculture and Consumer Services	1,135,538
31 Department of Commerce	
32 Commerce	(1,106,550)
33 Commerce State-Aid	950,000
34 NC Biotechnology Center	5,000,000
35 Rural Economic Development Center	2,169,000
36	
37 Department of Environment and Natural Resources	
38 Environment and Natural Resources	532,721
39 Clean Water Management Trust Fund	0
40	
41 Department of Labor	364,216
42	
43 JUSTICE AND PUBLIC SAFETY	
44	
45 Department of Correction	(11,184,897)
46	
47 Department of Crime Control and Public Safety	4,052,681
48	
49 Judicial Department	4,795,779
50 Judicial Department – Indigent Defense	11,500,000
51	
52 Department of Justice	692,508
53	
54 Department of Juvenile Justice and Delinquency Prevention	1,813,673
55	

1	GENERAL GOVERNMENT	
2		
3	Department of Administration	776,330
4		
5	Office of Administrative Hearings	90,476
6		
7	Department of State Auditor	(200,000)
8		
9	Office of State Controller	(99,429)
10		
11	Department of Cultural Resources	
12	Cultural Resources	6,692,414
13	Roanoke Island Commission	0
14		
15	State Board of Elections	2,222,412
16		
17	General Assembly	(921,318)
18		
19	Office of the Governor	
20	Office of the Governor	42,702
21	Office of State Budget and Management	148,427
22	OSBM – Reserve for Special Appropriations	4,375,000
23	Housing Finance Agency	2,250,000
24		
25	Department of Insurance	
26	Insurance	4,062,654
27	Insurance – Volunteer Safety Workers' Compensation	(1,734,000)
28		
29	Office of Lieutenant Governor	29,657
30		
31	Department of Revenue	(1,161,794)
32		
33	Rules Review Commission	(3,185)
34		
35	Department of Secretary of State	260,000
36		
37	Department of State Treasurer	
38	State Treasurer	424,708
39	State Treasurer – Retirement for Fire and Rescue Squad Workers	665,000
40		
41	TRANSPORTATION	
42		
43	Department of Transportation	(228,056)
44		
45	RESERVES, ADJUSTMENTS AND DEBT SERVICE	
46		
47	Reserve for Compensation Increases	275,200,000
48		
49	Reserve for LEO Salary Adjustments	2,007,385
50		
51	Reserve for State Health Plan	(7,800,000)
52		
53	Reserve for Teachers' and State Employees' Retirement Rate Adjustment	16,065,000
54		
55	Reserve for Consolidated Judicial Retirement	410,000

1		
2	Retirement System Payback	10,000,000
3		
4	Job Development Incentive Grants Reserve	4,000,000
5		
6	Mental Health, Developmental Disabilities, and Substance	
7	Abuse Services Trust Fund	10,000,000
8		
9	Senate Bill 100 Compliance	(11,813,949)
10		
11	Debt Service	
12	General Debt Service	(82,888,480)
13	Federal Reimbursement	460,432
14		
15	TOTAL CURRENT OPERATIONS – GENERAL FUND	267,006,415
16	Requested by: Senators Garrou, Dalton, Hagan	
17	GENERAL FUND AVAILABILITY STATEMENT	
18	SECTION 2.2.(a) Section 2.2.(a) of S.L. 2003-284 is repealed. The General	
19	Fund availability used in adjusting the 2004-2005 budget is shown below:	
20		2004-2005
21	Unappropriated Balance Remaining from FY 2003-2004	145,664,254
22	Projected Reversions from FY 2003-2004	150,000,000
23	Projected Over Collections from FY 2003-2004	222,150,000
24	Additional FY 2003-2004 Appropriations (HB 1352, 3rd Ed.)	(44,100,000)
25	Year-End Unreserved Credit Balance	473,714,254
26		
27	Credit to Savings Reserve	(100,000,000)
28	Credit to Repairs and Renovations Reserve Account	(18,370,649)
29	Credit for ABC Bonuses Earned in FY 2003-2004	(108,000,000)
30	Beginning Unreserved Credit Balance FY 2004-2005	(247,343,605)
31		
32	Revenues Based on Existing Tax Structure	14,742,028,250
33		
34	Nontax Revenues	
35	Investment Income	86,020,000
36	Judicial Fees	136,730,000
37	Disproportionate Share	100,000,000
38	Insurance	53,900,000
39	Other Nontax Revenues	261,517,607
40	Highway Trust Fund Transfer	242,586,830
41	Highway Fund Transfer	16,166,400
42	Subtotal Nontax Revenues	896,920,837
43		
44	Total General Fund Availability	15,886,292,692
45		
46	Adjustments to Availability: 2004 Session	
47	Internal Revenue Code Conformity HB 1430	(2,600,000)
48	Reserve for Finance Provisions of HB 1414	(25,700,000)
49	Tobacco Payments Decline – Tobacco Trust Fund	(5,000,000)
50	Surplus Property Sales – 2004 Adjustment	10,000,000
51	Additional Credit to the R&R Reserve Account from	
52	Sale of Surplus Property	(40,000,000)
53	Transfer from Fire Safety Loan Fund	250,000
54	Transfer from Veterans' Home Trust Fund	500,000
55	Transfer from Information Technology Services	

1	Internal Service Fund	2,180,000
2	Adjust Reimbursement from Insurance Regulatory Fund	4,062,654
3	Adjust Reimbursement for Department of State Treasurer	424,708
4	Subtotal Adjustments to Availability: 2004 Session	(55,882,638)
5		
6	Revised General Fund Availability for 2004-2005 Fiscal Year	15,830,410,054
7		
8	Less: Total General Fund Appropriations	
9	for 2004-2005 Fiscal Year	(15,830,410,054)
10		
11	Unappropriated Balance	0

12
13 **SECTION 2.2.(b)** Subsections 2.2(b), 2.2(c), and 2.2(f) of S.L. 2003-284
14 read as rewritten:

15 "**SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited to the
16 Tobacco Trust Account from the Master Settlement Agreement pursuant to Section 6(2)
17 of S.L. 1999-2 during the ~~2003-2004 and 2004-2005 fiscal years,~~ fiscal year, the sum of
18 ~~forty million dollars (\$40,000,000)~~ thirty-five million dollars (\$35,000,000) shall be
19 transferred from the Department of Agriculture and Consumer Services, Budget Code
20 23703 (Tobacco Trust Fund), to the State Controller to be deposited in Nontax Budget
21 Code 19978 (Intra State Transfers) to support General Fund appropriations for the
22 ~~2003-2004 and 2004-2005 fiscal years.~~ year.

23 "**SECTION 2.2.(c)** Notwithstanding G.S. 143-16.4(a1), of the funds credited to the
24 Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2)
25 of S.L. 1999-2 during the ~~2003-2004 and 2004-2005 fiscal years,~~ fiscal year, the sum of
26 twenty million dollars (\$20,000,000) that would otherwise be deposited in the Fund
27 Reserve established by G.S. 147-86.30(c) and five million dollars (\$5,000,000) of the
28 funds that are not reserved pursuant to G.S. 147-86.30(c) shall be transferred from the
29 Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund),
30 to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State
31 Transfers) to support General Fund appropriations for the ~~2003-2004 and 2004-2005~~
32 ~~fiscal years.~~ year.

33 Notwithstanding G.S. 143-16.4(a1) and G.S. 147-86.30, of the funds credited to the
34 Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2)
35 of S.L. 1999-2 during the 2004-2005 fiscal year, the sum of twenty-five million dollars
36 (\$25,000,000) shall be transferred from the Department of State Treasurer, Budget Code
37 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in
38 Nontax Budget Code 19978 (Intra State Transfers) to support General Fund
39 appropriations for the 2004-2005 fiscal year. Any funds remaining after the transfer to
40 the General Fund shall be deposited in the Nonreserve Fund, not to exceed a total
41 deposit of twenty million dollars (\$20,000,000). If the total amount deposited to the
42 Nonreserve Fund equals twenty million dollars (\$20,000,000) and there are additional
43 remaining funds, then those funds shall be deposited in the Reserve Fund.

44 "**SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State
45 Controller shall transfer ~~fifteen million dollars (\$15,000,000)~~ thirty-five million dollars
46 (\$35,000,000) from the unreserved credit balance to the Repairs and Renovations
47 Reserve Account on June 30, ~~2003-2004.~~ This subsection becomes effective June 30,
48 ~~2003-2004.~~"

49 **SECTION 2.2.(c)** Funds transferred under this section to the Repairs and
50 Renovations Reserve Account or otherwise credited to the Repairs and Renovations
51 Reserve Account by this act are hereby appropriated for the 2004-2005 fiscal year to be
52 used in accordance with G.S. 143-15.3A.

53 If funds anticipated by this act from the sale of surplus property during the
54 2004-2005 fiscal year are under realized, the Director of the Budget shall reduce the

1 amount transferred or otherwise credited to the Repairs and Renovations Reserve
 2 Account pursuant to this act by a corresponding amount.

3 **SECTION 2.2.(d)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the
 4 State Controller shall transfer only one hundred million dollars (\$100,000,000) from the
 5 unreserved credit balance to the Savings Reserve Account on June 30, 2004. This is not
 6 an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the
 7 North Carolina Constitution. This subsection becomes effective June 30, 2004.

8 **SECTION 2.2.(e)** The State Controller shall transfer one hundred eight
 9 million dollars (\$108,000,000) from the General Fund unreserved credit balance to the
 10 Department of Public Instruction on June 30, 2004. These funds are hereby
 11 appropriated to the Department of Public Instruction for the 2003-2004 fiscal year and
 12 shall be used to provide ABC bonuses for schools that met or exceeded projected levels
 13 of improvement in student performance during the 2003-2004 school year.

14 These funds shall not revert at the end of the 2003-2004 fiscal year, but shall
 15 remain available until expended for this purpose. This subsection becomes effective
 16 June 30, 2004.

17 **SECTION 2.2.(f)** Section 6.23(a1) of S.L. 2003-284, as enacted by Section
 18 2 of S.L. 2003-283, is repealed.

19 **SECTION 2.2.(g)** Notwithstanding G.S. 165-48, five hundred thousand
 20 dollars (\$500,000) of the cash balance remaining in the NC Veterans Home Trust Fund
 21 (Budget Code 64106, Fund 6771) on July 1, 2004, shall be transferred to the State
 22 Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These
 23 funds shall be used to support the General Fund appropriation for the 2004-2005 fiscal
 24 year for the start-up cost of the State Veterans Nursing Home in Salisbury.

25 **SECTION 2.2.(h)** Notwithstanding G.S. 116-44.8, two hundred fifty
 26 thousand dollars (\$250,000) of the cash balance remaining in the Fire Safety Loan Fund
 27 (Budget Code 63414, Fund 6510) on July 1, 2004, shall be transferred to the State
 28 Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These
 29 funds shall be used to support General Fund appropriations for the 2004-2005 fiscal
 30 year.

31 **SECTION 2.2.(i)** On July 1, 2004, the State Controller shall transfer two
 32 million one hundred eighty thousand dollars (\$2,180,000) from Information Technology
 33 Services Budget Code 74660, to Nontax Budget Code 19978 (Intra State Transfers) to
 34 support General Fund appropriations for information technology programs and activities
 35 across State government for the 2004-2005 fiscal year.

36
 37 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

38
 39 Requested by: Senators Garrou, Dalton, Hagan

40 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

41 **SECTION 3.1.** Appropriations from the Highway Fund of the State for the
 42 maintenance and operation of the Department of Transportation, and for other purposes
 43 as enumerated, are made for the fiscal year ending June 30, 2005, according to the
 44 schedule that follows. Amounts set out in brackets are reductions from Highway Fund
 45 appropriations for the 2004-2005 fiscal year.

47 Current Operations – Highway Fund	2004-2005
48 Transportation Administration	\$ 1,227,072
49 Operations	–
50 Match for Federal Aid	–
51 Construction Program:	
52 State Secondary System	410,000
53 State Urban System	14,000,000
54 Discretionary Funds	5,000,000
55 Spot Safety Improvements	–

1	Access and Public Service Roads	—
2	Maintenance	17,438,991
3	Capital Improvements	—
4	Ferry Operations	1,000,000
5	State Aid to Municipalities	410,000
6	State Aid to Railroads	—
7	State Aid for Public Transportation	(436,479)
8	Asphalt Plant Cleanup	—
9	Governor's Highway Safety Program	—
10	Division of Motor Vehicles	1,218,921
11	Appropriations to Other State Agencies	1,030,489
12	Reserves and Transfers	
13	18,076,591	
14	Total	\$59,375,585

15
16 Requested by: Senators Garrou, Dalton, Hagan

17 **HIGHWAY FUND AVAILABILITY STATEMENT**

18 **SECTION 3.2.** The Highway Fund appropriations availability used in
19 developing modifications to the 2004-2005 Highway Fund budget contained in this act
20 is shown below.

21		
22	Highway Fund Budget Reform Statement	2004-2005
23		
24	Beginning Credit Balance	—
25	Estimated Revenue	\$ 1,390,900,000
26	Estimated Reversions	—
27		
28	Total Highway Fund Availability	\$ 1,390,900,000

29
30 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

31
32 Requested by: Senators Garrou, Dalton, Hagan

33 **HIGHWAY TRUST FUND APPROPRIATIONS**

34 **SECTION 4.1.** Appropriations from the Highway Trust Fund of the State for
35 the maintenance and operation of the Department of Transportation, and for other
36 purposes as enumerated, are made for the fiscal year ending June 30, 2005, according to
37 the schedule that follows. Amounts set out in brackets are reductions from Highway
38 Trust Fund appropriations for the 2004-2005 fiscal year.

39		
40	Current Operations – Highway Trust Fund	2004-2005
41		
42	Intrastate System	(7,488,716)
43	Urban Loops	(3,028,125)
44	Aid to Municipalities	(785,741)
45	Secondary Roads	236,830
46	Administrative Expense	(439,735)
47	Transfer to General Fund	66,513
48	GRAND TOTAL CURRENT OPERATIONS AND	
49	EXPANSION	(11,572,000)

50
51 **PART V. BLOCK GRANTS**

52
53 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

54 **DHHS BLOCK GRANTS**

1 **SECTION 5.1.(a)** Appropriations from federal block grant funds are made
2 for the fiscal year ending June 30, 2005, according to the following schedule:

3
4 **COMMUNITY SERVICES BLOCK GRANT**

5		
6	01. Community Action Agencies	\$ 15,266,973
7		
8	02. Limited Purpose Agencies	848,165
9		
10	03. NC Interagency Council for Homeless	
11	Programs	262,472
12		
13	04. Department of Health and Human Services	
14	to administer and monitor	
15	the activities of the	
16	Community Services Block Grant	848,165
17		

18 **TOTAL COMMUNITY SERVICES BLOCK GRANT** \$ 17,225,775

19
20 **SOCIAL SERVICES BLOCK GRANT**

21		
22	01. County departments of social services	\$ 28,868,189
23	(Transfer from TANF – \$4,500,000)	
24		
25	02. Allocation for in-home services provided	
26	by county departments of	
27	social services	2,101,113
28		
29	03. Division of Services for the Blind	3,105,711
30		
31	04. Division of Facility Services	426,836
32		
33	05. Division of Aging – Home and Community	
34	Care Block Grant	1,840,234
35		
36	06. Child Care Subsidies	6,269,309
37		
38	07. Division of Vocational Rehabilitation –	
39	United Cerebral Palsy	71,484
40		
41	08. State administration	1,693,368
42		
43	09. Child Medical Evaluation Program	238,321
44		
45	10. Adult day care services	2,155,301
46		
47	11. Comprehensive Treatment Services	
48	Program	422,003
49		
50	12. Department of Administration	
51	for the N.C. State Commission of Indian Affairs	
52	In-Home Services Program for the Elderly	203,198
53		
54	13. Division of Vocational Rehabilitation Services –	
55	Easter Seals Society	116,779

1			
2	14.	UNC-CH CARES Program for training and	
3		consultation services	247,920
4			
5	15.	Office of the Secretary – Office of Economic	
6		Opportunity for N.C. Senior Citizens'	
7		Federation for outreach services to	
8		low-income elderly persons	41,302
9			
10	16.	Division of Social Services – Child	
11		Caring Agencies	1,500,000
12			
13	17.	Division of Mental Health, Developmental Disabilities, and	
14		Substance Abuse Services – Developmentally Disabled	
15		Waiting List for services	5,000,000
16			
17	18.	Transfer to Preventive Health Services Block	
18		Grant for HIV/AIDS education, counseling, and	
19		testing	145,819
20			
21	19.	Division of Facility Services –	
22		Mental Health Licensure	213,128
23			
24	20.	Division of Mental Health, Developmental Disabilities,	
25		and Substance Abuse Services	3,234,601
26			
27	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 57,894,616
28			
29	LOW-INCOME ENERGY BLOCK GRANT		
30			
31	01.	Energy Assistance Programs	\$ 12,775,323
32			
33	02.	Crisis Intervention	9,192,927
34			
35	03.	Administration	2,957,339
36			
37	04.	Weatherization Program	4,212,740
38			
39	05.	Department of Administration –	
40		N.C. State Commission of Indian Affairs	54,840
41			
42	06.	Heating Air Repair and Replacement Program	1,966,153
43			
44	TOTAL LOW-INCOME ENERGY BLOCK GRANT		\$ 31,159,322
45			
46	MENTAL HEALTH SERVICES BLOCK GRANT		
47			
48	01.	Provision of community-based	
49		services for severe and persistently	
50		mentally ill adults	\$ 6,307,035
51			
52	02.	Provision of community-based	
53		services to children	3,921,991
54			
55	03.	Comprehensive Treatment Services	

1	Program for Children	1,500,000
2		
3	04. Administration	568,911
4		
5	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,297,937
6		
7	SUBSTANCE ABUSE PREVENTION	
8	AND TREATMENT BLOCK GRANT	
9		
10	01. Provision of community-based	
11	alcohol and drug abuse services,	
12	tuberculosis services, and services	
13	provided by the Alcohol and Drug Abuse	
14	Treatment Centers	\$ 20,441,082
15		
16	02. Continuation of services for	
17	pregnant women and women	
18	with dependent children	8,069,524
19		
20	03. Continuation of services to	
21	IV drug abusers and others at risk	
22	for HIV diseases	4,816,378
23		
24	04. Child Substance Abuse Prevention	5,835,701
25		
26	05. Provision of services to children	
27	and adolescents	4,940,500
28		
29	06. Juvenile Services – Family Focus	851,156
30		
31	07. Allocation to the Division of Public Health	
32	for HIV/STD Risk Reduction Projects	383,980
33		
34	08. Allocation to the Division of Public Health	
35	for HIV/STD Prevention by County Health	
36	Departments	209,576
37		
38	09. Allocation to the Division of Public Health	
39	for the Maternal and Child Health Hotline	37,779
40		
41	10. Administration	2,596,307
42		
43	TOTAL SUBSTANCE ABUSE PREVENTION	
44	AND TREATMENT BLOCK GRANT	\$ 48,181,983
45		
46	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
47		
48	01. Child care subsidies	\$154,163,120
49		
50	02. Quality and availability initiatives	17,764,577
51		
52	03. Administrative expenses	7,163,654
53		
54	04. Transfer from TANF Block Grant for	
55	child care subsidies	81,292,880

1		
2	TOTAL CHILD CARE AND DEVELOPMENT FUND	
3	BLOCK GRANT	\$260,384,231
4		
5	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
6	(TANF) BLOCK GRANT	
7		
8	01. Work First Cash Assistance	\$119,841,508
9		
10	02. Work First County Block Grants	94,653,315
11		
12	03. Transfer to the Child Care and	
13	Development Fund Block Grant	
14	for child care subsidies	81,292,880
15		
16	04. Child Care Subsidies for TANF Recipients	34,512,238
17		
18	05. Child Welfare Workers for local DSS	12,452,391
19		
20	06. Transfer to Social Services Block Grant for	
21	County Departments of Social Services for	
22	Children's Services	4,500,000
23		
24	07. Support Our Students – Department of	
25	Juvenile Justice and Delinquency	
26	Prevention	2,249,642
27		
28	08. Domestic Violence Services	
29	for Work First Families	1,200,000
30		
31	09. After-School Services for	
32	At-Risk Children	2,249,642
33	YWCA Central Carolinas	
34	Youth Development Programs \$176,000	
35		
36	10. Division of Social Services –	
37	Administration	400,000
38		
39	11. Child Welfare Training	2,550,000
40		
41	12. TANF Automation Projects	592,500
42		
43	13. Boys and Girls Clubs	1,000,000
44		
45	14. Work Central Career Advancement Center	550,000
46		
47	15. WCH-Teen Pregnancy Prevention	1,500,000
48		
49	16. Transfer to Social Services Block Grant for Child Caring	
50	Institutions	1,500,000
51		
52	17. Special Children's Adoption Fund	3,000,000
53		
54	18. NC Fast Implementation	2,717,298
55		

1	19.	Maternity Homes	838,000
2			
3	20.	Individual Development Accounts	180,000
4			
5	21.	Reduction of Out-of-Wedlock Births	1,000,000
6			
7	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
8	(TANF) BLOCK GRANT		\$368,599,414
9			
10	MATERNAL AND CHILD HEALTH BLOCK GRANT		
11			
12	01.	Healthy Mothers/Healthy Children	
13		Block Grants to Local Health	
14		Departments	9,565,205
15			
16	02.	High-Risk Maternity Clinic Services,	
17		Perinatal Education and Training,	
18		Childhood Injury Prevention,	
19		Public Information and Education, and	
20		Technical Assistance to Local Health	
21		Departments, Office of Women's Health	2,207,273
22			
23	03.	Adolescent Pregnancy Prevention Coalition of NC	150,000
24			
25	04.	Office of Minority Health	159,000
26			
27	05.	Services to Children With Special Health	
28		Care Needs	4,280,987
29			
30	06.	School Health Nurse Initiative	3,250,000
31		School Health Nurse Initiative Reserve 2005-2006	3,250,000
32			
33	07.	Administration and Program Support	2,434,303
34			
35	TOTAL MATERNAL AND CHILD		
36	HEALTH BLOCK GRANT		\$ 25,296,768
37			
38	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
39			
40	01.	Statewide Health Promotion Programs	\$2,772,294
41			
42	02.	Rape Crisis/Victims' Services	
43		Program – Council for Women	197,112
44			
45	03.	Transfer from Social Services	
46		Block Grant – HIV/AIDS education,	
47		counseling, and testing	145,819
48			
49	04.	Administration and Program Support	699,092
50			
51	05.	Osteoporosis Task Force Operating Costs	150,000
52			
53	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,964,317
54			
55	GENERAL PROVISIONS		

1 **SECTION 5.1.(b)** Information to Be Included in Block Grant Plans. – The
2 Department of Health and Human Services shall submit a separate plan for each Block
3 Grant received and administered by the Department and each plan shall include the
4 following:

- 5 (1) A delineation of the proposed allocations by program or activity,
6 including State and federal match requirements.
- 7 (2) A delineation of the proposed State and local administrative
8 expenditures.
- 9 (3) An identification of all new positions to be established through the
10 Block Grant, including permanent, temporary, and time-limited
11 positions.
- 12 (4) A comparison of the proposed allocations by program or activity with
13 two prior years' program and activity budgets and two prior years'
14 actual program or activity expenditures.
- 15 (5) A projection of current year expenditures by program or activity.
- 16 (6) A projection of federal Block Grant funds available, including unspent
17 federal funds from the current and prior fiscal years.

18 **SECTION 5.1.(c)** Changes in Federal Fund Availability. – If the United
19 States Congress reduces or increases the federal fund availability for any of the Block
20 Grants administered by the Department of Health and Human Services from the
21 amounts appropriated in this section, the Department shall allocate the increase or
22 decrease proportionally across the program and activity appropriations identified for
23 that Block Grant in this section. In allocating a decrease in federal fund availability, the
24 Department shall not eliminate the funding for a program or activity appropriated in this
25 section. In allocating an increase in federal fund availability, the Department shall not
26 propose funding for new programs or activities not appropriated in this section or
27 increase administrative expenditures.

28 Prior to allocating the change in federal fund availability, the proposed
29 allocation must be approved by the Office of State Budget and Management. If the
30 Department adjusts the allocation of any Block Grant due to changes in federal fund
31 availability, then a report shall be made to the Joint Legislative Committee on
32 Governmental Operations, the House of Representatives Appropriations Subcommittee
33 on Health and Human Services, the Senate Appropriations Committee on Health and
34 Human Services, and the Fiscal Research Division.

35 **SECTION 5.1.(d)** All changes to the budgeted allocations to the Block
36 Grants administered by the Department of Health and Human Services that are not
37 specifically addressed in this section shall be approved by the Office of State Budget
38 and Management and a report shall be submitted to the Joint Legislative Commission on
39 Governmental Operations for review prior to implementing the changes. All changes to
40 the budgeted allocations to the Block Grant shall be reported immediately to the House
41 of Representatives Appropriations Subcommittee on Health and Human Services, the
42 Senate Appropriations Committee on Health and Human Services, and the Fiscal
43 Research Division.

44 **SECTION 5.1.(e)** The Department of Health and Human Services shall
45 develop a monitoring and oversight plan for all recipients, both public and private, and
46 subrecipients of the federal Block Grant funding. The plan shall be modeled after the
47 Department's performance contracting initiative and include the following:

- 48 (1) Performance standards for recipients.
- 49 (2) Financial audit standards for non-State entities equivalent to the
50 requirements in G.S. 143-6.1 for non-State entities receiving State
51 funds.
- 52 (3) Means for collecting performance data from recipients.
- 53 (4) Any other information necessary for monitoring and overseeing the
54 use of Block Grant funding.

1 The Department shall provide the plan to the Fiscal Research Division by January 1,
2 2005.

3 **SECTION 5.1.(f)** The Department of Health and Human Services shall
4 report to the House of Representatives Appropriations Subcommittee on Health and
5 Human Services, the Senate Appropriations Committee on Health and Human Services,
6 and the Fiscal Research Division on positions funded from federal Block Grants. The
7 report shall include the following for each Block Grant:

- 8 (1) All State positions currently funded through the Block Grant,
9 including permanent, temporary, and time-limited positions.
- 10 (2) Budgeted salary and fringe benefits for each position.
- 11 (3) Identify the percentage of Block Grant funds used to fund each
12 position.

13 The report shall be submitted no later than December 1, 2004.

14 **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM**

15 **SECTION 5.1.(g)** Additional funds received for the Low-Income Home
16 Energy Assistance Program (LIHEAP) may be allocated for Energy Assistance
17 Payments or Crisis Intervention Payments without prior consultation with the Joint
18 Legislative Commission on Governmental Operations. Additional funds received shall
19 be reported to the Joint Legislative Commission on Governmental Operations and the
20 Fiscal Research Division upon notification of the award. The Department of Health and
21 Human Services shall not allocate funds for any activities, including increasing
22 administration, other than assistance payments, without prior consultation with the Joint
23 Legislative Commission on Governmental Operations.

24 **COMMUNITY SERVICE BLOCK GRANT**

25 **SECTION 5.1.(h)** The Department of Health and Human Services shall
26 report to the House of Representatives Appropriations Subcommittee on Health and
27 Human Services, the Senate Appropriations Committee on Health and Human Services,
28 and the Fiscal Research Division on the activities and expenditures of the North
29 Carolina Interagency Council for Coordinating Homeless Programs no later than April
30 1, 2005.

31 **MENTAL HEALTH BLOCK GRANT**

32 **SECTION 5.1.(i)** The sum of one million five hundred thousand dollars
33 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the
34 Department of Health and Human Services, Division of Mental Health, Developmental
35 Disabilities, and Substance Abuse Services, for the 2004-2005 fiscal year, and the sum
36 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this
37 section in the Social Services Block Grant to the Department of Health and Human
38 Services, Division of Social Services, for the 2004-2005 fiscal year shall be used to
39 continue a Comprehensive Treatment Services Program for Children in accordance with
40 Section 21.60 of S.L. 2001-424, as amended.

41 **SECTION 5.1.(j)** The Department of Health and Human Services shall
42 contract with the University of North Carolina at Chapel Hill for the purpose of
43 providing psychology student stipends in the amount of fifty thousand dollars (\$50,000)
44 for the 2004-2005 fiscal year. Twenty-five thousand dollars (\$25,000) of this contract
45 shall be paid from the Mental Health Block Grant.

46 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

47 **SECTION 5.1.(k)** The sum of four hundred thousand dollars (\$400,000)
48 appropriated in this section to the Department of Health and Human Services in the
49 Child Care and Development Fund Block Grant shall be used for the operations of the
50 Medical Child Care Pilot.

51 **SECTION 5.1.(l)** Payment for subsidized child care services provided with
52 federal TANF funds shall comply with all regulations and policies issued by the
53 Division of Child Development for the subsidized child care program.

54 **SECTION 5.1.(m)** If funds appropriated through the Child Care and
55 Development Fund Block Grant for any program cannot be obligated or spent in that

1 program within the obligation or liquidation periods allowed by the federal grants, the
2 Department may move funds to child care subsidies, unless otherwise prohibited by
3 federal requirements of the grant, in order to use the federal funds fully.

4 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT**
5 **(TANF)**

6 **SECTION 5.1.(n)** The sum of four hundred thousand dollars (\$400,000)
7 appropriated in this section in the TANF Block Grant to the Department of Health and
8 Human Services, Division of Social Services, for the 2004-2005 fiscal year shall be
9 used to support administration of TANF-funded programs.

10 **SECTION 5.1.(o)** The sum of two million two hundred forty-nine thousand
11 six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF
12 Block Grant to the Department of Health and Human Services and transferred to the
13 Department of Juvenile Justice and Delinquency Prevention for the 2004-2005 fiscal
14 year shall be used to support the existing Support Our Students Program and to expand
15 the Program statewide, focusing on low-income communities in unserved areas. These
16 funds shall not be used for administration of the Program.

17 **SECTION 5.1.(p)** The sum of one million two hundred thousand dollars
18 (\$1,200,000) appropriated under this section in the TANF Block Grant to the
19 Department of Health and Human Services, Division of Social Services, for the
20 2004-2005 fiscal year shall be used to provide domestic violence services to Work First
21 recipients. These funds shall be used to provide domestic violence counseling, support,
22 and other direct services to clients. These funds shall not be used to establish new
23 domestic violence shelters or to facilitate lobbying efforts. The Division of Social
24 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to
25 support one administrative position within the Division of Social Services to implement
26 this subsection.

27 Each county department of social services and the local domestic violence
28 shelter program serving the county shall jointly develop a plan for utilizing these funds.
29 The plan shall include the services to be provided and the manner in which the services
30 shall be delivered. The county plan shall be signed by the county social services director
31 or the director's designee and the domestic violence program director or the director's
32 designee and submitted to the Division of Social Services by December 1, 2004. The
33 Division of Social Services, in consultation with the Council for Women, shall review
34 the county plans and shall provide consultation and technical assistance to the
35 departments of social services and local domestic violence shelter programs, if needed.

36 The Division of Social Services shall allocate these funds to county
37 departments of social services according to the following formula: (i) each county shall
38 receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall
39 receive an allocation of the remaining funds based on the county's proportion of the
40 statewide total of the Work First caseload as of July 1, 2004, and the county's proportion
41 of the statewide total of the individuals receiving domestic violence services from
42 programs funded by the Council for Women as of July 1, 2004. The Division of Social
43 Services may reallocate unspent funds to counties that submit a written request for
44 additional funds.

45 The Department of Health and Human Services shall report on the uses of
46 these funds no later than March 1, 2005, to the House of Representatives Appropriations
47 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
48 Health and Human Services, and the Fiscal Research Division.

49 **SECTION 5.1.(q)** The sum of two million two hundred forty-nine thousand
50 six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF
51 Block Grant to the Department of Health and Human Services, Division of Social
52 Services, shall be used to expand after-school programs and services for at-risk children.
53 The Department shall develop and implement a grant program to award grants to
54 community-based programs that demonstrate the ability to reach children at risk of teen
55 pregnancy and school dropout. The Department shall award grants to community-based

1 organizations that demonstrate the ability to develop and implement linkages with local
2 departments of social services, area mental health programs, schools, and other human
3 services programs in order to provide support services and assistance to the child and
4 family. These funds may be used to fund one position within the Division of Social
5 Services to coordinate at-risk after-school programs and shall not be used for other State
6 administration. The Department shall report no later than March 1, 2005, on its progress
7 in complying with this section to the House of Representatives Appropriations
8 Subcommittee on Health and Human Services, the Senate Committee on Health and
9 Human Services, and the Fiscal Research Division.

10 **SECTION 5.1.(r)** The sum of twelve million four hundred fifty-two
11 thousand three hundred ninety-one dollars (\$12,452,391) appropriated in this section in
12 the TANF Block Grant to the Department of Health and Human Services, Division of
13 Social Services, for the 2004-2005 fiscal year shall be allocated to the county
14 departments of social services for hiring or contracting staff to investigate and provide
15 services in Child Protective Services.

16 **SECTION 5.1.(s)** The sum of two million five hundred fifty thousand
17 dollars (\$2,550,000) appropriated in this section in the TANF Block Grant to the
18 Department of Health and Human Services, Division of Social Services, for fiscal year
19 2004-2005 shall be used to support various child welfare training projects as follows:

- 20 (1) Provide a regional training center in southeastern North Carolina.
- 21 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in
22 Social Work Collaborative.
- 23 (3) Provide training for residential child care facilities.
- 24 (4) Provide for various other child welfare training initiatives.

25 **SECTION 5.1.(t)** The sum of eight hundred thirty-eight thousand dollars
26 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of
27 Health and Human Services shall be used to purchase services at maternity homes
28 throughout the State.

29 **SECTION 5.1.(u)** The sum of three million dollars (\$3,000,000)
30 appropriated in this section in the TANF Block Grant to the Department of Health and
31 Human Services, Special Children Adoption Fund, for the 2004-2005 fiscal year shall
32 be used to implement this subsection. The Division of Social Services, in consultation
33 with the North Carolina Association of County Directors of Social Services and
34 representatives of licensed private adoption agencies, shall develop guidelines for the
35 awarding of funds to licensed public and private adoption agencies upon the adoption of
36 children described in G.S. 108A-50 and in foster care. Payments received from the
37 Special Children Adoption Fund by participating agencies shall be used exclusively to
38 enhance the adoption services program. No local match shall be required as a condition
39 for receipt of these funds.

40 **SECTION 5.1.(v)** The sum of one million five hundred thousand dollars
41 (\$1,500,000) appropriated in this section in the TANF Block Grant and transferred to
42 the Social Services Block Grant to the Department of Health and Human Services,
43 Division of Social Services, for child caring agencies for the 2004-2005 fiscal year shall
44 be allocated to the State Private Child Caring Agencies Fund. These funds shall be
45 combined with all other funds allocated to the State Private Child Caring Agencies Fund
46 for the reimbursement of the State's portion of the cost of care for the placement of
47 certain children by the county departments of social services who are not eligible for
48 federal IV-E funds. These funds shall not be used to match other federal funds.

49 **SECTION 5.1.(w)** The sum of one million dollars (\$1,000,000) appropriated
50 in this section to the Department of Health and Human Services in the TANF Block
51 Grant for Boys and Girls Clubs shall be used to make grants for approved programs.
52 The Department of Health and Human Services, in accordance with federal regulations
53 for the use of TANF Block Grant funds, shall administer a grant program to award
54 funds to the Boys and Girls Clubs across the State in order to implement programs that
55 improve the motivation, performance, and self-esteem of youths and to implement other

1 initiatives that would be expected to reduce school dropout and teen pregnancy rates.
2 The Department shall encourage and facilitate collaboration between the Boys and Girls
3 Clubs and Support Our Students, Communities in Schools, and similar programs to
4 submit joint applications for the funds if appropriate.

5 **SECTION 5.1.(x)** The sum of one hundred eighty thousand dollars
6 (\$180,000) appropriated in this section in the TANF Block Grant to the Department of
7 Health and Human Services for the 2004-2005 fiscal year shall be used for Individual
8 Development Accounts (IDA) for TANF-eligible individuals. The Social Services
9 Commission shall adopt rules for the implementation of this subsection. The
10 Department shall report to the House of Representatives Appropriations Subcommittee
11 on Health and Human Services, the Senate Appropriations Committee on Health and
12 Human Services, and the Fiscal Research Division on the implementation of the
13 program and the use of the funds no later than May 1, 2005.

14 **SECTION 5.1.(y)** The sum of five hundred fifty thousand dollars (\$550,000)
15 appropriated in this section to the Department of Health and Human Services in the
16 TANF Block Grant shall be transferred to Work Central, Inc. Work Central, Inc. shall
17 report on the number of people served and the services received as a result of the receipt
18 of funds. The report shall contain expenditure data, including the amount of funds used
19 for administration and direct training. The report shall also include the number of people
20 who have been employed as a direct result of services provided by Work Central, Inc.,
21 including the length of employment in the new position. The Department of Health and
22 Human Services shall evaluate the program and ensure that services provided are not
23 duplicative of local employment security commissions in the nine counties served by
24 Work Central, Inc. The evaluation report shall be submitted to the House of
25 Representatives Appropriations Subcommittee on Health and Human Services, the
26 Senate Appropriations Committee on Health and Human Services, and the Fiscal
27 Research Division no later than May 1, 2005.

28 **SECTION 5.1.(z)** The sum of two million seven hundred seventeen
29 thousand two hundred ninety-eight dollars (\$2,717,298) in this section appropriated to
30 the Department of Health and Human Services in the TANF Block Grant shall be used
31 to implement the component of N.C. Fast that specifically deals with the creation and
32 implementation of a statewide automated child welfare information system. The
33 statewide system shall be implemented in compliance with federal regulations in order
34 to avoid any potential payback of funds due to noncompliance. The Department of
35 Health and Human Services shall report on its compliance with this subsection to the
36 House of Representatives Appropriations Subcommittee on Health and Human
37 Services, the Senate Appropriations Committee on Health and Human Services, and the
38 Fiscal Research Division no later than January 1, 2005.

39 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

40 **SECTION 5.1.(aa)** If federal funds are received under the Maternal and
41 Child Health Block Grant for abstinence education, pursuant to section 912 of Public
42 Law 104-193 (42 U.S.C. § 710), for the 2004-2005 fiscal year, then those funds shall be
43 transferred to the State Board of Education to be administered by the Department of
44 Public Instruction. The Department of Public Instruction shall use the funds to establish
45 an Abstinence Until Marriage Education Program and shall delegate to one or more
46 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The
47 Department of Public Instruction shall carefully and strictly follow federal guidelines in
48 implementing and administering the abstinence education grant funds.

49 **SECTION 5.1.(bb)** The Department of Health and Human Services shall
50 ensure that there will be follow-up testing in the Newborn Screening Program.

51 **SECTION 5.1.(cc)** Of the funds budgeted in the Maternal and Child Health
52 Block Grant, six million five hundred thousand dollars (\$6,500,000) shall be used for a
53 school nurse funding initiative. Of these funds, the sum of three million two hundred
54 fifty thousand dollars (\$3,250,000) shall be allocated for the 2004-2005 fiscal year, and
55 the sum of three million two hundred fifty thousand dollars (\$3,250,000) shall be placed

1 in a reserve for the 2005-2006 fiscal year. The Department of Health and Human
 2 Services, Division of Public Health, in conjunction with the Department of Public
 3 Instruction, shall provide funds to communities to hire school nurses. The program will
 4 fund approximately 65 time-limited nurses over a two-year period.

5 There shall be no supplanting of local or Title I funds with these block grant
 6 funds. Communities shall maintain their current level of effort and funding for school
 7 nurses. No block grant funds shall be used for funding nurses for State agencies. All
 8 funding shall be used for direct services.

9 The Department of Health and Human Services shall report on the use of
 10 funds allocated under this section by December 1, 2004, to the House of
 11 Representatives Appropriations Subcommittee on Health and Human Services, the
 12 Senate Appropriations Committee on Health and Human Services, and the Fiscal
 13 Research Division.

14
 15 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

16 **NER BLOCK GRANTS**

17 **SECTION 5.2.(a)** Appropriations from federal block grant funds are made
 18 for fiscal year ending June 30, 2005, according to the following schedule:

19
 20 **COMMUNITY DEVELOPMENT BLOCK GRANT**

21	01. State Administration	\$ 1,000,000
22	02. Urgent Needs and Contingency	50,000
23	03. Scattered Site Housing	13,200,000
24	04. Economic Development	10,960,000
25	05. Community Revitalization	12,200,000
26	06. State Technical Assistance	450,000
27	07. Housing Development	2,000,000
28	08. Infrastructure	5,140,000

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 38 **TOTAL COMMUNITY DEVELOPMENT**

39 **BLOCK GRANT – 2005 Program Year** \$ 45,000,000

40
 41 **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds
 42 are reduced below the amounts specified above after the effective date of this act, then
 43 every program in each of these federal block grants shall be reduced by the same
 44 percentage as the reduction in federal funds.

45 **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community
 46 Development Block Grant. – Any block grant funds appropriated by the Congress of the
 47 United States in addition to the funds specified in this section shall be expended as
 48 follows: each program category under the Community Development Block Grant shall
 49 be increased by the same percentage as the increase in federal funds.

50 **SECTION 5.2.(d)** Limitations on Community Development Block Grant
 51 Funds. – Of the funds appropriated in this section for the Community Development
 52 Block Grant, the following shall be allocated in each category for each program year: up
 53 to one million dollars (\$1,000,000) may be used for State Administration; not less than
 54 fifty thousand dollars (\$50,000) may be used for Urgent Needs and Contingency; up to
 55 thirteen million two hundred dollars (\$13,200,000) may be used for Scattered Site

1 Housing; up to ten million nine hundred sixty thousand dollars (\$10,960,000) may be
2 used for Economic Development, including Urban Redevelopment Grants and Small
3 Business or Entrepreneurial Assistance; not less than twelve million two hundred
4 thousand dollars (\$12,200,000) shall be used for Community Revitalization; up to four
5 hundred fifty thousand (\$450,000) may be used for State Technical Assistance; up to
6 two million dollars (\$2,000,000) may be used for Housing Development; up to five
7 million one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure.
8 If federal block grant funds are reduced or increased by the Congress of the United
9 States after the effective date of this act, then these reductions or increases shall be
10 allocated in accordance with subsection (b) or (c) of this section, as applicable.

11 **SECTION 5.2.(e)** Increase Capacity for Nonprofit Organizations. –
12 Assistance to nonprofit organizations to increase their capacity to carry out
13 CDBG-eligible activities in partnership with units of local government is an eligible
14 activity under any program category in accordance with federal regulations. Capacity
15 building grants may be made from funds available within program categories, program
16 income, or unobligated funds.

17 **SECTION 5.2.(f)** Department of Commerce Demonstration Grants in
18 Partnership with Rural Economic Development Center, Inc. – The Department of
19 Commerce, in partnership with the Rural Economic Development Center, Inc., shall
20 award up to two million two hundred fifty thousand dollars (\$2,250,000) in
21 demonstration grants to local governments in very distressed rural areas of the State.
22 These grants shall be used to address critical infrastructure and entrepreneurial needs
23 and to provide small business assistance.

24 **SECTION 5.2.(g)** The Department of Commerce shall consult with the Joint
25 Legislative Commission on Governmental Operations prior to allocating or reallocating
26 Community Development Block Grant Funds in a way that is inconsistent with the
27 Department's plan for the program year.

28 29 **PART VI. GENERAL PROVISIONS**

30
31 Requested by: Senators Garrou, Dalton, Hagan

32 **PREFERENCE GIVEN TO AMERICAN-MADE PRODUCTS**

33 **SECTION 6.1.** Article 3 of Chapter 143 of the General Statutes is amended
34 by adding the following new section:

35 **"§ 143-59.1A. Preference given to products made in United States.**

36 If the Secretary of Administration or a State agency cannot give preference to North
37 Carolina products or services as provided in G.S. 143-59, the Secretary or State agency
38 shall give preference, as far as may be practicable and to the extent permitted by State
39 law, federal law, and federal treaty, to products or services manufactured or produced in
40 the United States. Provided, however, that in giving such preference no sacrifice or loss
41 in price or quality shall be permitted; and provided further, that preference in all cases
42 shall be given to surplus products or articles produced and manufactured by other State
43 departments, institutions, or agencies which are available for distribution."

44
45 Requested by: Senators Garrou, Dalton, Hagan

46 **EXTEND LOCAL GOVERNMENT HOLD HARMLESS**

47 **SECTION 6.3.** G.S. 105-521 reads as rewritten:

48 **"§ 105-521. Transitional local government hold harmless.**

49 (a) Definitions. – The following definitions apply in this section:

- 50 (1) Local government. – A county or municipality that received a
51 distribution of local sales taxes in the most recent fiscal year for which
52 a local sales tax share has been calculated.
53 (2) Local sales tax share. – A local government's percentage share of the
54 two-cent (2¢) sales taxes distributed during the most recent fiscal year
55 for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before August 15, 2003, and every August 15 through August 15, 2004, 2009, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars (\$100.00).

On or before May 1, 2003, and every May 1 through May 1, 2004, 2009, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 through January 31, 2005, 2010, the amount distributed under this section for the current fiscal year."

Requested by: Senators Kerr, Albertson, Garrou, Dalton, Hagan

MODIFY GLOBAL TRANSPARK DEBT

SECTION 6.6. G.S. 147-69.2(b)(11) reads as rewritten:

"(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (~~(\$25,000,000)~~, that (\$25,000,000)). These obligations shall have a final maturity not later than September 1, 2009. ~~than September 1, 2004.~~ of September 1, 2009. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. ~~In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.~~"

Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

JDIG APPROPRIATION STRUCTURE

1 **SECTION 6.12.(a)** Article 1 of Chapter 143 of the General Statutes is
2 amended by adding a new section to read:

3 **"§ 143-15.3E. JDIG Reserve Fund.**

4 (a) The State Controller shall establish a reserve in the General Fund to be
5 known as the JDIG Reserve. Funds from the JDIG Reserve shall not be expended or
6 transferred except in accordance with G.S. 143B-437.63.

7 (b) It is the intent of the General Assembly to appropriate funds annually to the
8 JDIG Reserve established in this section in amounts sufficient to meet the anticipated
9 cash requirements for each fiscal year of the Job Development Investment Grant
10 Program established pursuant to G.S. 143B-437.52."

11 **SECTION 6.12.(b)** Part 2G of Article 10 of Chapter 143B of the General
12 Statutes is amended by adding a new section to read:

13 **"§ 143B-437.63. JDIG Program cash flow requirements.**

14 (a) Notwithstanding any other provision of law, grants made through the Job
15 Development Investment Grant Program, including amounts transferred pursuant to
16 G.S. 143B-437.61, shall be budgeted and funded on a cash flow basis. The Office of
17 State Budget and Management shall periodically transfer funds from the JDIG Reserve
18 Fund established pursuant to G.S. 143-15.3E to the Department of Commerce in an
19 amount sufficient to satisfy grant obligations and amounts to be transferred pursuant to
20 G.S. 143B-437.61 to be paid during the fiscal year.

21 (b) If the Director of the Budget determines that funds appropriated to the JDIG
22 Reserve are insufficient to meet the cash requirements of the Job Development
23 Investment Grant Program for the fiscal year, the Director may use any available funds
24 to make necessary payments.

25 (c) Funds transferred to the Department of Commerce pursuant to this section
26 that are unexpended at the end of the fiscal year shall revert to the General Fund on June
27 30 of each year."

28
29 Requested by: Senators Garrou, Dalton, Hagan

30 **PROCEEDS FROM SALE OF SURPLUS PROPERTY CREDITED TO THE**
31 **REPAIRS AND RENOVATIONS RESERVE ACCOUNT**

32 **SECTION 6.17.** Section 6.8(b) of S.L. 2003-284, as amended by Section 3
33 of S.L. 2003-283, reads as rewritten:

34 **"SECTION 6.8.(b)** Establish State-Owned Surplus Real Property Disposal System;
35 Purpose; Use of Proceeds. – The Department of Administration, in consultation with the
36 Office of State Budget and Management, the Department of Transportation, The
37 University of North Carolina, and all other affected State departments, agencies, and
38 institutions, shall develop and implement a State-owned surplus real property disposal
39 system. The purpose of the system is to establish a uniform real property disposal
40 system that will continuously identify State-owned surplus real property, evaluate that
41 property, and dispose of that property as appropriate. ~~Within 60 days after receiving the~~
42 ~~list from the State Property Office, the Joint Legislative Commission on Governmental~~
43 ~~Operations shall review the list of State-owned surplus real property and recommend~~
44 ~~which properties they wish to be sold.~~ Unless otherwise provided by law, the clear
45 proceeds of the sale of State-owned surplus real property shall be credited to the
46 General Fund. Repairs and Renovations Reserve Account established by
47 G.S. 143-15.3A. It is the intent of the General Assembly that these proceeds shall
48 partially offset debt service costs occasioned by the use of Certificates of Participation
49 to finance the repair and renovation of State buildings. If the clear proceeds from the
50 disposal of such property are not expected to generate the expected availability of funds
51 contemplated under this section to be used to offset debt service by June 30, 2005, the
52 General Assembly shall identify in the bill revising the 2004-2005 budget other sources
53 of funds to fund the debt service."

54
55 Requested by: Senators Hagan, Garrou, Dalton

STUDY BUDGETING OF OCCUPATIONAL LICENSING BOARDS

SECTION 6.18. The Legislative Research Commission may study the funding mechanisms of all of the occupational licensing boards and commissions in the State and shall consider options for funding and budgeting those boards and commissions more effectively and efficiently, including funding and budgeting those board and commissions through the General Fund. The Commission shall report its findings and recommendations to the 2005 General Assembly.

Requested by: Senators Garrou, Dalton, Hagan

REVISE REPORT OF BUDGET DIRECTOR

SECTION 6.19. Section 6.2A of S.L. 2003-284 reads as rewritten:

"SECTION 6.2A.(a) The Office of State Budget and Management, in consultation with the State Controller, shall conduct a review and evaluation of current practices relative to the following issues:

- (1) The proliferation of nonreverting funds and accounts.
- (2) The designation of selected funds as "off-budget".
- (3) The sources of authority, consistent with Article V, Section 7(1) of the Constitution, under which expenditures are being made from each special fund, trust fund, internal service fund, or enterprise fund.
- (4) The proper classification and management of funds as special funds, trust funds, internal service funds, or enterprise funds consistent with criteria adopted by the Governmental Accounting Standards Board.
- (5) Appropriate budget planning within special funds, trust funds, internal service funds, and enterprise funds, including, in particular, the accurate projection of receipts, expenditures, and fund balances and the presentation of that information for legislative review and appropriation action.
- (6) The administration of G.S. 143-27, which requires in part that the over collection of departmental receipts be accompanied by a corresponding reduction in the allotments to institutions, departments, and agencies.

"SECTION 6.2A.(b) Where the review and evaluation reveals problems or other failures, the Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Appropriations Committees of the Senate and House of Representatives ~~as soon as practicable, no later than January 15, 2005.~~ In particular, the Office of State Budget and Management shall transmit to the General Assembly a list of special funds properly classified together with their estimated beginning balances, estimated receipts and expenditures, and estimated ending balances, and a list of funds currently classified as special funds for which the receipts are more appropriately reflected as offsets to total requirements in General Fund budget codes. The list of special funds properly classified should include funds currently classified as trust funds that are more appropriately classified as special funds."

Requested by: Senators Garrou, Dalton, Hagan

SPECIAL FUNDS, FEDERAL RECEIPTS, APPROPRIATIONS

SECTION 6.20. Section 6.1 of S.L. 2003-284 reads as rewritten:

"SECTION 6.1. There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution,

1 department, or agency from appropriations from that Fund by the amount of the excess,
2 unless the Director of the Budget finds that the appropriations from the Fund are
3 necessary to maintain the function that generated the receipts at the level anticipated in
4 the certified Budget Codes for that Fund.

5 Funds that become available from overrealized receipts in General Fund Codes and
6 Highway Fund Codes may be used for new permanent employee positions or to raise
7 the salary of existing employees only as follows:

8 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or

9 (2) If the Director of the Budget finds that the new permanent employee
10 positions are necessary to maintain the function that generated the
11 receipts at the level anticipated in the certified budget codes for that
12 Fund. The Director of the Budget shall notify the President Pro
13 Tempore of the Senate, the Speakers of the House of Representatives,
14 the Chairs of the Appropriations Committees of the Senate and the
15 House of Representatives, and the Fiscal Research Division of the
16 Legislative Services Office that he intends to make such a finding at
17 least 10 days before he makes the finding. The notification shall set out
18 the reason the positions are necessary to maintain the function.

19 The Office of State Budget and Management shall report to the Joint Legislative
20 Commission on Governmental Operations and to the Fiscal Research Division of the
21 Legislative Services Office within 30 days after the end of each quarter the General
22 Fund Codes or Highway Fund Codes that did not result in a corresponding reduced
23 allotment from appropriations from that Fund.

24 ~~This section shall expire June 30, 2004."~~

25
26 Requested by: Senators Garrou, Dalton, Hagan

27 TRANSFERS BETWEEN LINE ITEMS

28 **SECTION 6.21.** For the 2004-2005 fiscal year only, State departments and
29 agencies may transfer General Fund appropriations between personal service and
30 nonpersonal service line items provided that it has been approved by the department or
31 agency head and has received prior approval from the Office of State Budget and
32 Management. Personal service funds may be transferred and used for nonpersonal
33 service expenditures related to continuing operations and shall not be used to expand
34 existing programs or to establish new programs.

35 The Office of State Budget and Management shall report to the Joint
36 Legislative Commission on Governmental Operations on a quarterly basis beginning
37 October 15, 2004, on all transfers approved under this section.

38 General Fund salary and related benefit appropriations for State departments
39 and agencies that are reduced or eliminated in this act shall not be replaced by other
40 budgeted line items supported by General Fund appropriations. Nonpersonal service
41 funds or lapsed salary funds shall not be used to raise the salary of existing employees.

42
43 Requested by: Senators Garrou, Dalton, Hagan, Thomas, Rand, Kerr, Hargett

44 CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

45 **SECTION 6.22.** Section 6.4 of S.L. 2003-284 reads as rewritten:

46 ~~"SECTION 6.4.(a)~~ **SECTION 6.4.** Funds in the amount of five million dollars
47 (\$5,000,000) for the 2003-2004 fiscal year and five million dollars (\$5,000,000) for the
48 2004-2005 fiscal year are appropriated in this act to the Contingency and Emergency
49 Fund. Of these funds:

50 (1) Up to two million dollars (\$2,000,000) for the 2003-2004 fiscal year
51 and for the 2004-2005 fiscal year may be used for purposes related to
52 the Base Realignment and Closure Act ~~(BRAC); (BRAC), including~~
53 allocations for individual community efforts; and

54 (2) Up to two hundred fifty thousand dollars (\$250,000) for the 2003-2004
55 fiscal year and for the 2004-2005 fiscal year may be expended for

1 statutory purposes other than those set out in G.S. 143-23(a1)(2) or in
 2 subdivision (1) of this section.
 3 The remainder of these funds shall be expended only for the purposes outlined in
 4 G.S. 143-23(a1)(2)."
 5

6 Requested by: Senators Garrou, Dalton, Hagan

7 **AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS**

8 **SECTION 6.23.** Notwithstanding G.S. 143-34.1(a1), a department,
 9 institution, or other agency of State government may establish receipt-supported
 10 positions authorized in this act upon approval by the Director of the Budget. The
 11 Director may establish receipt-supported positions pursuant to this section at salary
 12 grades or amounts different from those set out in this act, if the Director determines that
 13 the change is necessary. The Director shall not change the classification or increase the
 14 number of receipt-supported positions specified in this act without prior consultation
 15 with the Joint Legislative Commission on Governmental Operations.
 16

17 Requested by: Senators Garrou, Dalton, Hagan

18 **REPORTING OF NON-STATE ENTITIES**

19 **SECTION 6.24.** G.S. 143-6.1 reads as rewritten:

20 **"§ 143-6.1. Report on use of State funds by non-State entities.**

21 (a) Disbursement and Use of State Funds. – Every ~~corporation, organization, and~~
 22 ~~institution non-State entity~~ that receives, uses, or expends any State funds shall use or
 23 expend the funds only for the purposes for which they were appropriated by the General
 24 Assembly or collected by the State. For purposes of this section, the term "non-State
 25 entity" means a firm, organization, corporation, partnership, association, institution, unit
 26 of local government, or any other organization that is not a State agency, department, or
 27 institution. State funds include federal funds that flow through the State. For the
 28 purposes of this section, the term "grantee" means a ~~corporation, organization, or~~
 29 ~~institution non-State entity other than a unit of local government~~ that receives a grant of
 30 State funds from a State agency, department, or institution.

31 The State shall not disburse State funds appropriated by the General Assembly to
 32 any grantee or collected by the State for use by any grantee unless that grantee:

- 33 (1) Provides all reports and financial information required under this
- 34 section to the appropriate State agencies and officials; and
- 35 (2) Provides any additional information that the Office of State Budget
- 36 and Management deems necessary demonstrating that such grantee is
- 37 capable of managing the funds in accordance with law and has
- 38 established adequate financial procedures and controls.

39 All financial statements furnished to the State Auditor pursuant to this section, and
 40 any audits or other reports prepared by the State Auditor, are public records.

41 (a1) Compliance by Non-State Entities. – If the Director of the Budget finds that a
 42 non-State entity has spent or encumbered State funds for an unauthorized purpose, the
 43 Director shall take appropriate administrative action to ensure that no further
 44 irregularities occur and shall report to the Attorney General any facts that pertain to an
 45 apparent violation of a criminal law or an apparent instance of malfeasance,
 46 misfeasance, or nonfeasance in connection with the use of State funds.

47 (b) State Agency Responsibilities. – A State agency that receives State funds and
 48 then disburses the State funds to a grantee shall:

- 49 (1) Submit documents to the State Auditor in a prescribed format
- 50 describing standards of compliance and suggested audit procedures
- 51 sufficient to give adequate direction to independent auditors
- 52 performing audits.
- 53 (2) Annually, at the time the grant is made, notify each grantee, in writing,
- 54 of the reporting requirements set forth in this section and that the State
- 55 agency is not authorized to disburse funds to grantees that fail to

- 1 comply with the reporting requirements for funds received during the
2 prior fiscal year.
- 3 (3) Provide each grantee with the accounting form and other requirements
4 prescribed by the State Auditor.
- 5 (4) Submit a list to the State Auditor by October 31 each year of every
6 grantee to which the agency disbursed State funds in the prior fiscal
7 year, the amount disbursed to each grantee, the funding source of each
8 grant, and other such information as required by the State Auditor to
9 comply with the requirements set forth in this section.
- 10 (5) Submit a list to the Office of State Budget and Management by
11 January 31 each year of every grantee to which the agency disbursed
12 State funds in the prior fiscal year and, for each grantee, whether that
13 grantee has filed the sworn accounting required by subsection (c) of
14 this section and whether the sworn accounting is in compliance with
15 subsection (c) of this section.
- 16 (6) Ensure funds are spent in accordance with the purposes for which they
17 were granted and hold the grantees accountable for the legal and
18 appropriate expenditure of State grant funds.
- 19 (7) Provide for adequate oversight and monitoring to prevent the misuse
20 of State funds.
- 21 (b1) Grantee Responsibilities. – A grantee that receives a grant of State funds
22 shall:
- 23 (1) Ensure funds are spent in accordance with the purposes for which they
24 were granted and be accountable for the legal and appropriate
25 expenditure of State grant funds.
- 26 (2) Maintain reports, records, and other information to properly account
27 for the expenditure of all State grant funds received by the grantee and
28 to make the reports, records, and other information available to the
29 grantor State agency or the State Auditor for oversight, monitoring,
30 and evaluation purposes.
- 31 (3) Hold any non-State entity to which the grantee provides a grant of
32 State funds accountable for the legal and appropriate expenditure of
33 State grant funds.
- 34 (4) Adhere to the reporting requirements mandated by this section.
- 35 (c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or
36 expends between fifteen thousand dollars (\$15,000) and three hundred thousand dollars
37 (\$300,000) in State funds annually must file annually with the State Auditor and the
38 State agency that disbursed the funds a sworn accounting of receipts and expenditures
39 of the State funds and a description of activities and accomplishments undertaken by the
40 grantee with State funds. This accounting must be attested to by the treasurer of the
41 grantee and one other authorizing officer of the grantee. The accounting must be filed
42 within six months after the end of the grantee's fiscal year in which the State funds were
43 received. The accounting and the description of activities and accomplishments shall be
44 in the ~~form~~ formats, including electronic filings, required by the State Auditor and
45 provided to the grantee by the disbursing agency.
- 46 (d) Grantee Audit Reports. – A grantee that receives, uses, or expends State
47 funds in the amount of three hundred thousand dollars (\$300,000) or more annually
48 must file annually with the State Auditor a financial statement in the form and on the
49 schedule prescribed by the State Auditor. These audit reports shall be filed no later than
50 nine months after the close of the grantee's fiscal year. The financial statement must be
51 audited in accordance with standards prescribed by the State Auditor to assure that State
52 funds are used for the purposes provided by law.
- 53 A grantee that receives, uses, or expends State funds in the amount of three hundred
54 thousand dollars (\$300,000) or more annually must file annually with the State Auditor
55 and the State agency that disbursed the funds a description of activities and

1 accomplishments undertaken by the grantee with State funds. This description must be
 2 filed within 90 days after the end of the grantee's fiscal year in which the State funds
 3 were received. The description of activities and accomplishments shall be in a format,
 4 including electronic filings, required by the State Auditor.

5 (d1) State Auditor's Responsibilities. – The State Auditor shall:

- 6 (1) Review each audit submitted pursuant to subsection (d) of this section
 7 and determine that it has been conducted in accordance with generally
 8 accepted audit standards and that the grantee has received a clean audit
 9 opinion.
 10 (2) Notify disbursing agencies by January 31 each year of all grantees that
 11 are not in compliance with the reporting requirements set forth in this
 12 section.
 13 (3) Notify disbursing agencies of any material audit findings in the audits
 14 of their grantees.
 15 (4) Submit a list to the Office of State Budget and Management by
 16 January 31 each year of every grantee that received State funds in the
 17 prior fiscal year and, for each grantee, whether that grantee has
 18 complied with this subsection.

19 (d2) Before a State agency disburses any funds for the fourth quarter of a fiscal
 20 year, the agency shall, in consultation with the Office of State Budget and Management,
 21 verify that the grantee has complied with the reporting requirements of this section. A
 22 State agency shall not disburse funds during the fourth quarter of the fiscal year to any
 23 grantee that has not complied with this section by March 31 of each year.

24 (d3) The Office of State Budget and Management shall report to the Joint
 25 Legislative Commission on Governmental Operations and the Fiscal Research Division
 26 by May 1 of each year on all grantees that failed to comply with this section for the
 27 prior fiscal year, the amount of State funds that were disbursed to each of those grantees
 28 during that fiscal year, and the amount of State funds that were withheld.

29 (e) Federal Reporting Requirements. – Federal law may require a grantee to
 30 make additional reports with respect to funds for which reports are required under this
 31 section. Notwithstanding the provisions of this section, a grantee may satisfy the
 32 reporting requirements of subsection (c) of this section by submitting a copy of the
 33 report required under federal law with respect to the same funds or by submitting a copy
 34 of the report described in subsection (d) of this section.

35 (f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article
 36 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or
 37 expends State funds. Such a grantee must, upon request, furnish to the State Auditor for
 38 audit all books, records, and other information necessary for the State Auditor to
 39 account fully for the use and expenditure of State funds. The grantee must furnish any
 40 additional financial or budgetary information requested by the State Auditor. Grantees
 41 shall ensure that work papers in the possession of their auditors are available to the State
 42 Auditor and provide the work papers upon request. Audit work papers furnished by an
 43 auditor of a grantee are not public records and are exempt from G.S. 132-1."
 44

45 Requested by: Senators Garrou, Dalton, Hagan, Kerr

46 **ESTABLISH NORTH CAROLINA ECONOMIC INFRASTRUCTURE**
 47 **PROGRAM**

48 **SECTION 6.25.(a)** There is appropriated from the General Fund to the
 49 Rural Economic Development Center, Inc., the sum of twenty million dollars
 50 (\$20,000,000) for the 2004-2005 fiscal year. The funds shall be used to establish and
 51 implement the North Carolina Economic Infrastructure Program. The Program shall
 52 consist of the following four areas of investment:

- 53 (1) To provide grants to local governments to construct critical water and
 54 wastewater facilities and to provide other infrastructure needs,

1 including technology needs, to sites where these facilities will generate
2 private job-creating investment.

- 3 (2) To create a new lending program tailored specifically to the needs of
4 small- and medium-size businesses that have the capacity to grow and
5 create jobs.
6 (3) To provide matching grants to local governments in distressed areas
7 and equity investments in public-private ventures that will
8 productively reuse vacant buildings, with priority given to towns with
9 a population of less than 5,000.
10 (4) To promote the diversification of North Carolina small farm
11 businesses into value-added production and marketing and to increase
12 opportunities in food and beverage manufacturing and distribution for
13 small farm entrepreneurs.

14 **SECTION 6.25.(b)** The Rural Economic Development Center, Inc., may
15 contract with other State agencies, constituent institutions of The University of North
16 Carolina, and colleges within the North Carolina Community College System for certain
17 aspects of the program, including design of program guidelines and evaluation of
18 program results.

19 **SECTION 6.25.(c)** The Rural Economic Development Center, Inc., may use
20 up to five percent (5%) of the funds appropriated by this section to cover its expenses in
21 administering the North Carolina Economic Infrastructure Program.

22 **SECTION 6.25.(d)** The Rural Economic Development Center, Inc., shall
23 report to the Joint Legislative Commission on Governmental Operations on a quarterly
24 basis concerning the progress of the North Carolina Economic Infrastructure Program. It
25 shall make its initial report on the program no later than January 15, 2005.

26 **SECTION 6.25.(e)** This section is effective only if House Bill 1352, 2003
27 Regular Session or similar legislation establishing and appropriating funds for the North
28 Carolina Economic Infrastructure Program does not become law.
29

30 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle

31 **AUTHORIZE ACQUISITION OF OPTIONS FOR SITE DEVELOPMENT AND**
32 **AUTHORIZE CONSULTANT CONTRACTS FOR RECRUITMENT**

33 **SECTION 6.26.(a)** G.S. 143B-437.02(b) reads as rewritten:

34 "(b) Fund. – The Site Infrastructure Development Fund is created as a restricted
35 reserve in the Department of Commerce. ~~The Department may use the funds in the fund~~
36 ~~only in accordance with this section for site development.~~ Funds in the fund do not
37 revert but remain available to the Department for these purposes. The Department may
38 use the funds in the fund only for the following purposes:

- 39 (1) For site development in accordance with this section.
40 (2) To acquire options and hold options for the purchase of land in
41 accordance with subsection (m) of this section."

42 **SECTION 6.26.(b)** G.S. 143B-437.02 is amended by adding a new
43 subsection to read:

44 "(m) Options. – The Department of Commerce may acquire options and hold
45 options for the purchase of land for an anticipated industrial site if all of the following
46 conditions are met:

- 47 (1) The options are necessary to provide a large, regional industrial site
48 that cannot be assembled by local governments.
49 (2) The acquisition of the options is approved by the Committee."

50 **SECTION 6.26.(c)** G.S. 143B-431(b) reads as rewritten:

51 "(b) The Department of Commerce is authorized to establish and provide for the
52 operation of North Carolina nonprofit corporations for any of the following purposes:

- 53 (1) To aid to achieve the purpose of aiding the development of small
54 businesses.

(2) ~~To businesses and to~~ achieve the purposes of the United States Small Business Administration's 504 Certified Development Company Program.

(3) To acquire options and hold options for the purchase of land under G.S. 143B-437.02."

SECTION 6.26.(d) G.S. 143B-431 is amended by adding a new subsection to read:

"(b1) The Department of Commerce is authorized to contract for the preparation of proposals and reports in response to requests for proposals for location or expansion of major industrial projects."

Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle

APPROPRIATION FOR ONE NORTH CAROLINA FUND AND THE NEW AND EXPANDING INDUSTRY TRAINING PROGRAM

SECTION 6.27.(a) There is appropriated from the General Fund to the One North Carolina Fund the sum of twenty million dollars (\$20,000,000) for the 2004-2005 fiscal year. It is the intent of the General Assembly that there be a recurring annual appropriation to the One North Carolina Fund of ten million dollars (\$10,000,000) beginning with the 2006-2007 fiscal year.

SECTION 6.27.(b) There is appropriated from the General Fund to the Community Colleges System Office the sum of four million one hundred thousand dollars (\$4,100,000) for the 2004-2005 fiscal year for new and expanding industry training.

SECTION 6.27.(c) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2H. One North Carolina Fund.

"§ 143B-437.70. Legislative findings and purpose.

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the retention and expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

(2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

(3) The purpose of this Part is to stimulate economic activity and to create new jobs within the State.

(4) The enactment of this Part will maintain consistency and accountability in a key economic development program and will ensure that the program benefits the State and its citizens.

(5) Nothing in this Part shall be construed to constitute a guarantee or assumption by the State of any debt of any business or to authorize the taxing power or the full faith and credit of the State to be pledged.

"§ 143B-437.71. One North Carolina Fund established as a nonreverting account.

(a) Establishment. – The One North Carolina Fund is established as a special revenue fund in the Department of Commerce.

(b) Purposes. – Moneys in the One North Carolina Fund may be allocated only to local governments for use in connection with securing commitments for the recruitment,

1 expansion, or retention of new and existing businesses. Moneys in the One North
2 Carolina Fund shall be used for the following purposes only:

- 3 (1) Installation or purchase of equipment.
- 4 (2) Structural repairs, improvements, or renovations to existing buildings
5 to be used for expansion.
- 6 (3) Construction of or improvements to new or existing water, sewer, gas,
7 or electric utility distribution lines or equipment for existing buildings.
- 8 (4) Construction of or improvements to new or existing water, sewer, gas,
9 or electric utility distribution lines or equipment for new or proposed
10 buildings to be used for manufacturing and industrial operations.
- 11 (5) Any other purposes specifically provided by an act of the General
12 Assembly.

13 **"§ 143B-437.72. Agreements required; disbursement of funds.**

14 (a) Agreements Required. – Funds may be disbursed from the One North
15 Carolina Fund only in accordance with agreements entered into between the State and
16 one or more local governments and between the local government and a grantee
17 business.

18 (b) Company Performance Agreements. – An agreement between a local
19 government and a grantee business must contain the following provisions:

- 20 (1) A commitment to create or retain a specified number of jobs within a
21 specified salary range at a specific location and commitments
22 regarding the time period in which the jobs will be created or retained
23 and the minimum time period for which the jobs must be maintained.
- 24 (2) A commitment to provide proof satisfactory to the local government
25 and the State of new jobs created or existing jobs retained and the
26 salary level of those jobs.
- 27 (3) A provision that funds received under the agreement may be used only
28 for a purpose specified in G.S. 143B-437.71(b).
- 29 (4) A provision allowing the State or the local government to inspect all
30 records of the business that may be used to confirm compliance with
31 the agreement or with the requirements of this Part.
- 32 (5) A provision establishing the method for determining compliance with
33 the agreement.
- 34 (6) A provision establishing a schedule for disbursement of funds under
35 the agreement that allows disbursement of funds only in proportion to
36 the amount of performance completed under the agreement.
- 37 (7) A provision requiring recapture of grant funds if a business
38 subsequently fails to comply with the terms of the agreement.
- 39 (8) Any other provision the State or the local government finds necessary
40 to ensure the proper use of State or local funds.

41 (c) Local Government Grant Agreement. – An agreement between the State and
42 one or more local governments shall contain the following provisions:

- 43 (1) A commitment on the part of the local government to match the funds
44 allocated by the State. A local match may include cash, fee waivers,
45 in-kind services, the donation of assets, the provision of infrastructure,
46 or a combination of these.
- 47 (2) A provision requiring the local government to recapture any funds to
48 which the local government is entitled under the company performance
49 agreement.
- 50 (3) A provision requiring the local government to reimburse the State for
51 any funds improperly disbursed or funds recaptured by the local
52 government.
- 53 (4) A provision allowing the State access to all records possessed by the
54 local government necessary to ensure compliance with the company
55 performance agreement and with the requirements of this Part.

1 (5) A provision establishing a schedule for the disbursement of funds from
 2 the One North Carolina Fund to the local government that reflects the
 3 disbursement schedule established in the company performance
 4 agreement.

5 (6) Any other provision the State finds necessary to ensure the proper use
 6 of State funds.

7 (d) Disbursement of Funds. – Funds may be disbursed from the One North
 8 Carolina Fund to the local government only after the local government has
 9 demonstrated that the business has complied with the terms of the company
 10 performance agreement. The State shall disburse funds allocated under the One North
 11 Carolina Fund to a local government in accordance with the disbursement schedule
 12 established in the local government grant agreement.

13 **"§ 143B-437.73. Program guidelines.**

14 The Department of Commerce, in conjunction with the Governor's Office, shall
 15 develop guidelines related to the administration of the One North Carolina Fund and to
 16 the selection of projects to receive allocations from the Fund. At least 20 days before the
 17 effective date of any guidelines or nontechnical amendments to guidelines, the
 18 Department of Commerce must publish the proposed guidelines on the Department's
 19 Web site and provide notice to persons who have requested notice of proposed
 20 guidelines. In addition, the Department must accept oral and written comments on the
 21 proposed guidelines during the 15 business days beginning on the first day that the
 22 Department has completed these notifications. For the purpose of this section, a
 23 technical amendment is either of the following:

24 (1) An amendment that corrects a spelling or grammatical error.

25 (2) An amendment that makes a clarification based on public comment
 26 and could have been anticipated by the public notice that immediately
 27 preceded the public comment.

28 **"§ 143B-437.74. Reports.**

29 The Department of Commerce shall publish a report on the use of funds in the One
 30 North Carolina Fund at the end of each fiscal quarter. The report shall contain
 31 information on the commitment, disbursement, and use of funds allocated under the One
 32 North Carolina Fund. The report is due no later than one month after the end of the
 33 fiscal quarter and must be submitted to the following:

34 (1) The Joint Legislative Commission on Governmental Operations.

35 (2) The chairs of the House and Senate Finance Committees.

36 (3) The chairs of the House and Senate Appropriations Committees.

37 (4) The Fiscal Research Division of the General Assembly."

38 **SECTION 6.27.(d)** G.S. 150B-1(d) is amended by adding a new subdivision

39 to read:

40 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to
 41 the following:

42 ...
 43 (13) The Department of Commerce and the Governor's Office in
 44 developing guidelines for the One North Carolina Fund under Part 2H
 45 of Article 10 of Chapter 143B of the General Statutes."

46 **SECTION 6.27.(e)** Program guidelines developed by the Department of
 47 Commerce for the One North Carolina Industrial Recruitment Competitive Fund that
 48 are in effect when this act becomes effective shall apply to the One North Carolina Fund
 49 enacted by this act until guidelines for the One North Carolina Fund are adopted
 50 pursuant to G.S. 143B-437.73. Program guidelines for the One North Carolina Fund
 51 shall be adopted in accordance with G.S. 143B-437.73 on or before July 15, 2004.

52 **SECTION 6.27.(f)** This section is effective only if House Bill 1352, 2003
 53 Regular Session, or similar legislation establishing and appropriating funds for the One
 54 North Carolina Fund and appropriating funds for new and expanding industry training
 55 does not become law.

1
2 Requested by: Senators Albertson, Basnight, Clodfelter, Dalton, Dannelly,
3 Dorsett, Garrou, Hagan, Hargett, Holloman, Hoyle, Hunt, Jenkins, Kerr, Kinnaird,
4 Lucas, Malone, Nesbitt, Purcell, Queen, Rand, Reeves, Shaw, Soles, Swindell, Thomas,
5 Weinstein

6 **WILLIAM FRIDAY INSTITUTE FOR HIGHER EDUCATION LEADERSHIP**

7 **SECTION 6.28.(a)** The General Assembly makes the following findings:

- 8 (1) There is a serious and continuing need for systematic education and
9 training and education within The University of North Carolina to
10 prepare men and women to perform effectively in progressively
11 responsible positions of administrative leadership in colleges and
12 universities in North Carolina and the nation.
- 13 (2) The Board of Governors of The University of North Carolina (UNC)
14 and the staff in the Office of the President are in agreement that The
15 University of North Carolina must provide a mechanism by which
16 talented faculty and staff within the UNC system can move into
17 administrative positions.
- 18 (3) A significant component of increasing the strength of The University
19 of North Carolina is increasing the administrative acumen of its
20 faculty, department chairs, deans, and other administrators to prepare
21 them for leadership positions.
- 22 (4) Historically, academic administrators moved into their positions
23 directly from the faculty, but the complexities of leadership make such
24 changes nearly impossible today.
- 25 (5) Business and industry focus on succession planning, climate surveys,
26 and leadership development, but universities have been slower to
27 respond to the need to develop talent within the organization.
- 28 (6) Some universities have developed leadership programs, and the best of
29 these programs nationally are those that are responsive to the culture of
30 the institution or system.
- 31 (7) Establishing an institute for higher education leadership development
32 will help change the current pattern within the UNC system by
33 providing ongoing professional development for faculty and
34 administrators on UNC campuses.
- 35 (8) Faculty and administrators will have opportunities to learn "best
36 practices" from their colleagues as well as from national experts in key
37 areas, and models will be provided that can be transferred back to the
38 campuses.
- 39 (9) Administrative internships on campuses and at the Office of the
40 President will provide aspiring administrators opportunities to
41 experience new environments and to learn leadership skills through
42 observation and participation.
- 43 (10) It is critical that The University of North Carolina provide
44 opportunities for faculty within the system to advance professionally
45 without having to leave North Carolina.

46 **SECTION 6.28 (b)** The Board of Governors of The University of North
47 Carolina shall establish the William Friday Institute for Higher Education Leadership
48 (the "Institute"). The Board of Governors of The University of North Carolina shall also
49 establish an advisory board for the Institute.

50 **SECTION 6.28.(c)** The purpose of the Institute is to enable students, faculty,
51 and administrators on the campuses of The University of North Carolina to explore and
52 validate their interest in and fitness for careers in academic administration and to gain
53 skills, insight, information, contacts, and experience through ongoing professional
54 leadership development programs.

1 Requested by: Senators Garrou, Dalton, Hagan

2 **LIMIT USE OF IMPERVIOUS PARKING SURFACES FOR SALE OF**
3 **NURSERY STOCK**

4 **SECTION 6.29.(a)** G.S. 143-214.7 is amended by adding a new subsection
5 to read:

6 "(d1) A retail merchant shall not use more than 200 square feet of impervious
7 surface area within the portion of the merchant's premises that is designed to be used for
8 vehicular parking and for vehicular and pedestrian ingress and egress to the parking lot
9 for the display and sale of nursery stock, as that term is defined by the Board of
10 Agriculture pursuant to G.S. 106-423."

11 **SECTION 6.29.(b)** G.S. 143-215.6A(a) is amended by adding a new
12 subdivision to read:

13 "(11) Violates or fails to act in accordance with G.S. 143-214.7(d1)."

14 **SECTION 6.29.(c)** This section becomes effective January 1, 2005, and
15 applies only to retail premises first opened for business on or after that date.

16
17 Requested by: Senators Dannelly, Garrou, Dalton, Hagan

18 **TOWN OF CORNELIUS MEDIAN CUTS**

19 **SECTION 6.30.** The Department of Transportation shall construct six
20 median cuts on Catawba Avenue in the Town of Cornelius at locations to be designated
21 by the Town.

22
23 Requested by: Senators Queen, Albertson, Garrou, Dalton, Hagan

24 **FUNDS FOR FARMLAND PRESERVATION PROJECTS**

25 **SECTION 6.31.(a)** Notwithstanding G.S. 113A-253, for the 2004-2005
26 fiscal year only, the Board of Trustees of the Clean Water Management Trust Fund may
27 allocate up to four million one hundred thousand dollars (\$4,100,000) to match federal,
28 State, local, and private farmland preservation and forestland preservation funds and to
29 acquire permanent conservation easements on working farms and forests.

30 **SECTION 6.31.(b)** The Department of Agriculture and Consumer Services
31 shall prepare a master plan for farmland preservation in North Carolina. The
32 Department shall review the Farmland Preservation Enabling Act and other
33 conservation and rural and economic development programs in developing a master
34 plan to preserve rural landscapes and promote working farms as a base for the
35 economic, environmental, and social interests of rural North Carolina. No later than
36 March 31, 2005, the Department shall report its findings and recommendations to the
37 chairs of the Senate Committee on Agriculture, Environment, and Natural Resources
38 and the House of Representatives Agriculture Committee.

39
40 **PART VII. PUBLIC SCHOOLS**

41
42 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

43 **TEACHER SALARY SCHEDULES**

44 **SECTION 7.1.(a)** Effective for the 2004-2005 school year, the Director of
45 the Budget shall transfer from the Reserve for Experience Step Salary Increase for
46 Teachers and Principals in Public Schools for the 2004-2005 fiscal year funds necessary
47 to implement the teacher salary schedule set out in subsection (b) of this section,
48 including funds for the employer's retirement and social security contributions and
49 funds for annual longevity payments at one and one-half percent (1.5%) of base salary
50 for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of
51 base salary for 15 to 19 years of State service, three and twenty-five hundredths percent
52 (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent
53 (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2004,
54 for all teachers whose salaries are supported from the State's General Fund. These

1 funds shall be allocated to individuals according to rules adopted by the State Board of
 2 Education. The longevity payment shall be paid in a lump sum once a year.

3 **SECTION 7.1.(b)** For the 2004-2005 school year, the following monthly
 4 salary schedules shall apply to certified personnel of the public schools who are
 5 classified as teachers. The schedule contains 30 steps with each step corresponding to
 6 one year of teaching experience.

7
 8 2004-2005 Monthly Salary Schedule
 9 "A" Teachers

10	11 <u>Years of Experience</u>	12 <u>"A" Teachers</u>	13 <u>NBPTS Certification</u>
14	0	\$2,548	N/A
15	1	\$2,591	N/A
16	2	\$2,635	N/A
17	3	\$2,789	\$3,124
18	4	\$2,931	\$3,282
19	5	\$3,064	\$3,432
20	6	\$3,193	\$3,576
21	7	\$3,296	\$3,692
22	8	\$3,344	\$3,746
23	9	\$3,393	\$3,800
24	10	\$3,443	\$3,857
25	11	\$3,493	\$3,912
26	12	\$3,543	\$3,968
27	13	\$3,594	\$4,025
28	14	\$3,647	\$4,085
29	15	\$3,701	\$4,145
30	16	\$3,756	\$4,207
31	17	\$3,812	\$4,269
32	18	\$3,869	\$4,334
33	19	\$3,928	\$4,399
34	20	\$3,986	\$4,465
35	21	\$4,048	\$4,534
36	22	\$4,109	\$4,603
37	23	\$4,174	\$4,675
38	24	\$4,239	\$4,747
39	25	\$4,303	\$4,820
40	26	\$4,370	\$4,894
41	27	\$4,438	\$4,971
42	28	\$4,508	\$5,049
43	29	\$4,580	\$5,129
44	30+	\$4,580	\$5,129

45 2004-2005 Monthly Salary Schedule
 46 "M" Teachers

47	48 <u>Years of Experience</u>	49 <u>"M" Teachers</u>	50 <u>NBPTS Certification</u>
51	0	\$2,804	N/A
52	1	\$2,850	N/A
53	2	\$2,898	N/A
54	3	\$3,068	\$3,436
55	4	\$3,223	\$3,610
	5	\$3,371	\$3,775

1	6	\$3,512	\$3,933
2	7	\$3,626	\$4,061
3	8	\$3,679	\$4,120
4	9	\$3,732	\$4,180
5	10	\$3,788	\$4,242
6	11	\$3,842	\$4,303
7	12	\$3,898	\$4,365
8	13	\$3,953	\$4,427
9	14	\$4,012	\$4,493
10	15	\$4,071	\$4,560
11	16	\$4,132	\$4,627
12	17	\$4,193	\$4,696
13	18	\$4,256	\$4,766
14	19	\$4,320	\$4,839
15	20	\$4,385	\$4,911
16	21	\$4,453	\$4,987
17	22	\$4,520	\$5,063
18	23	\$4,592	\$5,143
19	24	\$4,663	\$5,222
20	25	\$4,733	\$5,301
21	26	\$4,807	\$5,384
22	27	\$4,883	\$5,468
23	28	\$4,959	\$5,554
24	29	\$5,038	\$5,642
25	30+	\$5,038	\$5,642

26 **SECTION 7.1.(c)** Certified public school teachers with certification based
 27 on academic preparation at the six-year degree level shall receive a salary supplement of
 28 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation
 29 provided for certified personnel of the public schools who are classified as "M"
 30 teachers. Certified public school teachers with certification based on academic
 31 preparation at the doctoral degree level shall receive a salary supplement of two
 32 hundred fifty-three dollars (\$253.00) per month in addition to the compensation
 33 provided for certified personnel of the public schools who are classified as "M"
 34 teachers.

35 **SECTION 7.1.(d)** Effective for the 2004-2005 school year, the first step of
 36 the salary schedule for school psychologists shall be equivalent to Step 5, corresponding
 37 to five years of experience, on the salary schedule established in this section for
 38 certified personnel of the public schools who are classified as "M" teachers. Certified
 39 psychologists shall be placed on the salary schedule at an appropriate step based on their
 40 years of experience. Certified psychologists shall receive longevity payments based on
 41 years of State service in the same manner as teachers.

42 Certified psychologists with certification based on academic preparation at
 43 the six-year degree level shall receive a salary supplement of one hundred twenty-six
 44 dollars (\$126.00) per month in addition to the compensation provided for certified
 45 psychologists. Certified psychologists with certification based on academic preparation
 46 at the doctoral degree level shall receive a salary supplement of two hundred fifty-three
 47 dollars (\$253.00) per month in addition to the compensation provided for certified
 48 psychologists.

49 **SECTION 7.1.(e)** Effective for the 2004-2005 school year, speech
 50 pathologists who are certified as speech pathologists at the masters degree level and
 51 audiologists who are certified as audiologists at the masters degree level and who are
 52 employed in the public schools as speech and language specialists and audiologists shall
 53 be paid on the school psychologist salary schedule.

54 Speech pathologists and audiologists with certification based on academic
 55 preparation at the six-year degree level shall receive a salary supplement of one hundred

1 twenty-six dollars (\$126.00) per month in addition to the compensation provided for
 2 speech pathologists and audiologists. Speech pathologists and audiologists with
 3 certification based on academic preparation at the doctoral degree level shall receive a
 4 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to
 5 the compensation provided for speech pathologists and audiologists.

6 **SECTION 7.1.(f)** Certified school nurses who are employed in the public
 7 schools as nurses shall be paid on the "M" salary schedule.

8 **SECTION 7.1.(g)** As used in this section, the term "teacher" shall also
 9 include instructional support personnel.

10
 11 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

12 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

13 **SECTION 7.2.(a)** Effective for the 2004-2005 school year, the Director of
 14 the Budget shall transfer from the Reserve for Compensation Increase for the 2004-2005
 15 fiscal year funds necessary to implement the salary schedule for school-based
 16 administrators as provided in this section. These funds shall be used for State-paid
 17 employees only.

18 **SECTION 7.2.(b)** The base salary schedule for school-based administrators
 19 shall apply only to principals and assistant principals. The base salary schedule for the
 20 2004-2005 fiscal year, commencing July 1, 2004, is as follows:

21
 22 2004-2005
 23 Principal and Assistant Principal Salary Schedules
 24 Classification

25	26 Yrs. of	Assistant	Prin I	Prin II	Prin III	Prin IV
27	Exp	Principal	(0-10)	(11-21)	(22-32)	(33-43)
28	0-4	\$3,256	-	-	-	-
29	5	\$3,404	-	-	-	-
30	6	\$3,547	-	-	-	-
31	7	\$3,662	-	-	-	-
32	8	\$3,715	\$3,715	-	-	-
33	9	\$3,769	\$3,769	-	-	-
34	10	\$3,826	\$3,826	\$3,880	-	-
35	11	\$3,880	\$3,880	\$3,937	-	-
36	12	\$3,937	\$3,937	\$3,992	\$4,052	-
37	13	\$3,992	\$3,992	\$4,052	\$4,111	\$4,173
38	14	\$4,052	\$4,052	\$4,111	\$4,173	\$4,236
39	15	\$4,111	\$4,111	\$4,173	\$4,236	\$4,298
40	16	\$4,173	\$4,173	\$4,236	\$4,298	\$4,364
41	17	\$4,236	\$4,236	\$4,298	\$4,364	\$4,428
42	18	\$4,298	\$4,298	\$4,364	\$4,428	\$4,497
43	19	\$4,364	\$4,364	\$4,428	\$4,497	\$4,566
44	20	\$4,428	\$4,428	\$4,497	\$4,566	\$4,638
45	21	\$4,497	\$4,497	\$4,566	\$4,638	\$4,709
46	22	\$4,566	\$4,566	\$4,638	\$4,709	\$4,781
47	23	\$4,638	\$4,638	\$4,709	\$4,781	\$4,855
48	24	\$4,709	\$4,709	\$4,781	\$4,855	\$4,931
49	25	\$4,781	\$4,781	\$4,855	\$4,931	\$5,009
50	26	\$4,855	\$4,855	\$4,931	\$5,009	\$5,088
51	27	\$4,931	\$4,931	\$5,009	\$5,088	\$5,190
52	28	\$5,009	\$5,009	\$5,088	\$5,190	\$5,294
53	29	\$5,088	\$5,088	\$5,190	\$5,294	\$5,400
54	30	\$5,190	\$5,190	\$5,294	\$5,400	\$5,508
55						

1	31	\$5,294	\$5,294	\$5,400	\$5,508	\$5,618
2	32	-	\$5,400	\$5,508	\$5,618	\$5,730
3	33	-	-	\$5,618	\$5,730	\$5,845
4	34	-	-	\$5,730	\$5,845	\$5,962
5	35	-	-	-	\$5,962	\$6,081
6	36	-	-	-	\$6,081	\$6,204
7	37	-	-	-	-	\$6,328

8
9

10 2004-2005
11 Principal and Assistant Principal Salary Schedules
12 Classification

14	Yrs. of	Prin V	Prin VI	Prin VII	Prin VIII
15	Exp	(44-54)	(55-65)	(66-100)	(101 +)
16	14	\$4,298	-	-	-
17	15	\$4,364	-	-	-
18	16	\$4,428	\$4,497	-	-
19	17	\$4,497	\$4,566	\$4,709	-
20	18	\$4,566	\$4,638	\$4,781	\$4,855
21	19	\$4,638	\$4,709	\$4,855	\$4,931
22	20	\$4,709	\$4,781	\$4,931	\$5,009
23	21	\$4,781	\$4,855	\$5,009	\$5,088
24	22	\$4,855	\$4,931	\$5,088	\$5,190
25	23	\$4,931	\$5,009	\$5,190	\$5,294
26	24	\$5,009	\$5,088	\$5,294	\$5,400
27	25	\$5,088	\$5,190	\$5,400	\$5,508
28	26	\$5,190	\$5,294	\$5,508	\$5,618
29	27	\$5,294	\$5,400	\$5,618	\$5,730
30	28	\$5,400	\$5,508	\$5,730	\$5,845
31	29	\$5,508	\$5,618	\$5,845	\$5,962
32	30	\$5,618	\$5,730	\$5,962	\$6,081
33	31	\$5,730	\$5,845	\$6,081	\$6,204
34	32	\$5,845	\$5,962	\$6,204	\$6,328
35	33	\$5,962	\$6,081	\$6,328	\$6,454
36	34	\$6,081	\$6,204	\$6,454	\$6,583
37	35	\$6,204	\$6,328	\$6,583	\$6,714
38	36	\$6,328	\$6,454	\$6,714	\$6,848
39	37	\$6,454	\$6,583	\$6,848	\$6,986
40	38	\$6,583	\$6,714	\$6,986	\$7,125
41	39	-	\$6,848	\$7,125	\$7,267
42	40	-	\$6,986	\$7,267	\$7,413
43	41	-	-	\$7,413	\$7,561

44

45 **SECTION 7.2.(c)** The appropriate classification for placement of principals
46 and assistant principals on the salary schedule, except for principals in alternative
47 schools, shall be determined in accordance with the following schedule:

48	Classification	Number of Teachers Supervised
49	Assistant Principal	
50	Principal I	Fewer than 11 Teachers
51	Principal II	11-21 Teachers
52	Principal III	22-32 Teachers
53	Principal IV	33-43 Teachers

54
55

1	Principal V	44-54 Teachers
2	Principal VI	55-65 Teachers
3	Principal VII	66-100 Teachers
4	Principal VIII	More than 100 Teachers

5
6 The number of teachers supervised includes teachers and assistant principals
7 paid from State funds only; it does not include teachers or assistant principals paid from
8 non-State funds or the principal or teacher assistants.

9 The beginning classification for principals in alternative schools shall be the
10 Principal III level. Principals in alternative schools who supervise 33 or more teachers
11 shall be classified according to the number of teachers supervised.

12 **SECTION 7.2.(d)** A principal shall be placed on the step on the salary
13 schedule that reflects total number of years of experience as a certificated employee of
14 the public schools and an additional step for every three years of experience as a
15 principal. A principal or assistant principal shall also continue to receive any additional
16 State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000
17 school years for improvement in student performance or maintaining a safe and orderly
18 school.

19 **SECTION 7.2.(e)** Principals and assistant principals with certification based
20 on academic preparation at the six-year degree level shall be paid a salary supplement of
21 one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level
22 shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per
23 month.

24 **SECTION 7.2.(f)** There shall be no State requirement that superintendents
25 in each local school unit shall receive in State-paid salary at least one percent (1%)
26 more than the highest paid principal receives in State salary in that school unit;
27 provided, however, the additional State-paid salary a superintendent who was employed
28 by a local school administrative unit for the 1992-1993 fiscal year received because of
29 that requirement shall not be reduced because of this subsection for subsequent fiscal
30 years that the superintendent is employed by that local school administrative unit so
31 long as the superintendent is entitled to at least that amount of additional State-paid
32 salary under the rules in effect for the 1992-1993 fiscal year.

33 **SECTION 7.2.(g)** Longevity pay for principals and assistant principals shall
34 be as provided for State employees under the State Personnel Act.

35 **SECTION 7.2.(h)**

- 36 (1) If a principal is reassigned to a higher job classification because the
37 principal is transferred to a school within a local school administrative
38 unit with a larger number of State-allotted teachers, the principal shall
39 be placed on the salary schedule as if the principal had served the
40 principal's entire career as a principal at the higher job classification.
41 (2) If a principal is reassigned to a lower job classification because the
42 principal is transferred to a school within a local school administrative
43 unit with a smaller number of State-allotted teachers, the principal
44 shall be placed on the salary schedule as if the principal had served the
45 principal's entire career as a principal at the lower job classification.

46 This subsection applies to all transfers on or after the effective date of this
47 section, except transfers in school systems that have been created, or will be created, by
48 merging two or more school systems. Transfers in these merged systems are exempt
49 from the provisions of this subsection for one calendar year following the date of the
50 merger.

51 **SECTION 7.2.(i)** Participants in an approved full-time masters in school
52 administration program shall receive up to a 10-month stipend at the beginning salary of
53 an assistant principal during the internship period of the masters program. For the
54 2004-2005 fiscal year and subsequent fiscal years, the stipend shall not exceed the
55 difference between the beginning salary of an assistant principal and any fellowship

1 funds received by the intern as a full-time student, including awards of the Principal
 2 Fellows Program. The Principal Fellows Program or the school of education where the
 3 intern participates in a full-time masters in school administration program shall supply
 4 the Department of Public Instruction with certification of eligible full-time interns.

5 **SECTION 7.2.(j)** During the 2004-2005 fiscal year, the placement on the
 6 salary schedule of an administrator with a one-year provisional assistant principal's
 7 certificate shall be at the entry-level salary for an assistant principal or the appropriate
 8 step on the teacher salary schedule, whichever is higher.

9
 10 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

11 **EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINCIPALS IN**
 12 **PUBLIC SCHOOLS**

13 **SECTION 7.2A.** Effective July 1, 2004, any permanent certified personnel
 14 employed on July 1, 2004, and paid on the teacher salary schedule with 29+ years of
 15 experience shall receive a one-time bonus equivalent to the average increase of the 26 to
 16 29 year steps. Effective July 1, 2004, any permanent personnel employed on July 1,
 17 2004, and paid at the top of the principal and assistant principal salary schedule shall
 18 receive a one-time bonus equivalent to two percent (2%). For permanent part-time
 19 personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under
 20 G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

21
 22 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

23 **CENTRAL OFFICE SALARIES**

24 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant
 25 superintendents, associate superintendents, directors/coordinators, supervisors, and
 26 finance officers for the 2004-2005 fiscal year, beginning July 1, 2004.

27	School Administrator I	\$2,932	\$5,411
28	School Administrator II	\$3,112	\$5,740
29	School Administrator III	\$3,303	\$6,088
30	School Administrator IV	\$3,436	\$6,331
31	School Administrator V	\$3,574	\$6,586
32	School Administrator VI	\$3,792	\$6,986
33	School Administrator VII	\$3,945	\$7,266

34 The local board of education shall determine the appropriate category and
 35 placement for each assistant superintendent, associate superintendent,
 36 director/coordinator, supervisor, or finance officer within the salary ranges and within
 37 funds appropriated by the General Assembly for central office administrators and
 38 superintendents. The category in which an employee is placed shall be included in the
 39 contract of any employee hired on or after July 1, 2004.

40 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public
 41 school superintendents for the 2004-2005 fiscal year, beginning July 1, 2004.

42	Superintendent I	\$4,187	\$7,709
43	Superintendent II	\$4,445	\$8,175
44	Superintendent III	\$4,716	\$8,673
45	Superintendent IV	\$5,005	\$9,199
46	Superintendent V	\$5,312	\$9,760

47 The local board of education shall determine the appropriate category and
 48 placement for the superintendent based on the average daily membership of the local
 49 school administrative unit and within funds appropriated by the General Assembly for
 50 central office administrators and superintendents.

51 Notwithstanding the provisions of this subsection, a local board of education
 52 may pay an amount in excess of the applicable range to a superintendent who is entitled
 53 to receive the higher amount under Section 7.2(f) of this act.

1 **SECTION 7.3.(c)** Longevity pay for superintendents, assistant
2 superintendents, associate superintendents, directors/coordinators, supervisors, and
3 finance officers shall be as provided for State employees under the State Personnel Act.

4 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate
5 superintendents, directors/coordinators, supervisors, and finance officers with
6 certification based on academic preparation at the six-year degree level shall receive a
7 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to
8 the compensation provided pursuant to this section. Superintendents, assistant
9 superintendents, associate superintendents, directors/coordinators, supervisors, and
10 finance officers with certification based on academic preparation at the doctoral degree
11 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per
12 month in addition to the compensation provided for under this section.

13 **SECTION 7.3.(e)** The State Board of Education shall not permit local
14 school administrative units to transfer State funds from other funding categories for
15 salaries for public school central office administrators.

16 **SECTION 7.3.(f)** The annual salary increase for all permanent full-time
17 personnel paid from the Central Office Allotment shall be the greater of one thousand
18 dollars (\$1,000) or two and seventy-five one hundredths percent (2.75%), commencing
19 July 1, 2004. The State Board of Education shall allocate these funds to local school
20 administrative units. The local boards of education shall establish guidelines for
21 providing salary increases to these personnel.

22
23 Requested by: Senators Lucas, Swindell, Nesbitt, Malone, Garrou, Dalton, Hagan

24 **NONCERTIFIED PERSONNEL SALARY**

25 **SECTION 7.4.(a)** The annual salary increase for permanent, full-time
26 noncertified public school employees whose salaries are supported from the State's
27 General Fund shall be the greater of one thousand dollars (\$1,000) or two and
28 seventy-five one hundredths percent (2.75%), commencing July 1, 2004.

29 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
30 for such employees who were employed for all or part of fiscal year 2003-2004 and who
31 continue their employment for fiscal year 2004-2005 by providing an annual salary
32 increase for employees of the greater of one thousand dollars (\$1,000) or two and
33 seventy-five one hundredths percent (2.75%). For part-time employees, the pay
34 increase shall be pro rata based on the number of hours worked.

35 **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for
36 noncertified personnel to support increases of the greater of one thousand dollars
37 (\$1,000) or two and seventy-five one hundredths percent (2.75%) for the 2004-2005
38 fiscal year.

39
40 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

41 **APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS**

42 **SECTION 7.5.** Section 7.8 of S.L. 2003-284 reads as rewritten:

43 **"SECTION 7.8.** Of funds appropriated from the General Fund to State Aid to Local
44 School Administrative Units, the sum of one million nine hundred fifty-six thousand
45 one hundred fifteen dollars (\$1,956,115) for the 2003-2004 ~~and 2004-2005 fiscal years~~
46 fiscal year and the sum of six hundred two thousand nine hundred seventy-five dollars
47 (\$602,975) for the 2004-2005 fiscal year shall be used to provide the State's chronically
48 low-performing schools with tools needed to dramatically improve student achievement.
49 These funds shall be used to implement any of the following strategies at the schools
50 that have not previously been implemented with State or other funds:

- 51 (1) The sum of one million six hundred fifty-seven thousand three
52 hundred forty-five dollars (\$1,657,345) for the 2003-2004 ~~and~~
53 ~~2004-2005 fiscal years~~ fiscal year and the sum of two hundred
54 ninety-seven thousand four hundred six dollars (\$297,406) for the
55 2004-2005 fiscal year shall be used to reduce class size at a continually

low-performing school to ensure that the number of teachers allotted for students in grades four and five is one for every 17 students, and that the number of teachers allotted in grades six through eight is one for every 17 students, and that the number of teachers allotted in grades nine through twelve is one for every 20 students; and

- (2) The sum of two hundred ninety-eight thousand seven hundred seventy dollars (\$298,770) for the 2003-2004 and 2004-2005 fiscal years fiscal year and the sum of three hundred five thousand five hundred sixty-nine dollars (\$305,569) for the 2004-2005 fiscal year shall be used to extend teachers' contracts for a total of 10 days, including five days of additional instruction with related costs for other than teachers' salaries for the 2003-2004 and 2004-2005 school years.

Notwithstanding any other provision of law, the State Board of Education may implement intervention strategies for the 2003-2004 and 2004-2005 school years that it deems appropriate."

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

CHILDREN WITH DISABILITIES

SECTION 7.6. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand seven hundred seventy-three dollars and ninety-six cents (\$2,773.96) per child for a maximum of 166,500 children for the 2004-2005 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities, or (ii) twelve and five-tenths percent (12.5%) of the 2004-2005 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.7. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of nine hundred fourteen dollars and ninety-five cents (\$914.95) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2004-2005 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 54,762 children for the 2004-2005 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING

SECTION 7.7A.(a) Funds for Disadvantaged Student Supplemental Funding. – The General Assembly finds that it is appropriate to provide supplemental funding to local school administrative units with the lowest capacity to help their disadvantaged students enhance their academic performance. Therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2004-2005 fiscal year for this purpose.

SECTION 7.7A.(b) Use of Funds for Supplemental Funding. – Funds received pursuant to this section shall be used only to meet the needs of disadvantaged students in accordance with a detailed plan developed jointly by the local school

1 administrative unit and an LEA Assistance Team. The plan shall identify the most
2 significant barriers to high student performance and strategies for addressing them.
3 These strategies may include reducing class size, providing targeted training to teachers,
4 and implementing incentives to recruit and retain excellent teachers. In designing these
5 plans, significant consideration shall be given to reducing class size in kindergarten
6 through third grade to 15 students or fewer and to contracting with the Teacher
7 Academy to provide customized teacher training.

8 **SECTION 7.7A.(c)** Eligibility for Funding. – To determine eligibility for
9 funds under this section, the State Board of Education shall:

- 10 (1) Compute a composite index for each local school administrative unit
11 in the State that is comprised of the sum of:
12 a. The percentage of students in the unit who scored at proficiency
13 level III or IV on end-of-grade tests for the 2003-2004 school
14 year;
15 b. The percentage of teachers employed by the unit for the
16 2002-2003 school year who returned to teach in the unit for the
17 2003-2004 school year;
18 c. The percentage of teachers employed by the unit for the
19 2003-2004 school year who had five years or more of teaching
20 experience; and
21 d. The percentage of students in ADM in the unit who are not in
22 poverty, per the Title I Low Income poverty data.
23 (2) Sort the units from highest to lowest according to their composite
24 indexes.
25 (3) Identify eligible local school administrative units by beginning at the
26 bottom of the list and moving upward.
27 (4) Continue identifying units until including an additional unit would
28 result in a combined ADM for all of the identified units of more than
29 40,000.

30 **SECTION 7.7A.(d)** Computation of Funding Level. – To determine the
31 funding level for each eligible local school administrative unit, the State Board of
32 Education shall:

- 33 (1) Establish a base funding level for all eligible units by multiplying the
34 ADM of the unit by two hundred fifty dollars (\$250.00).
35 (2) Adjust the base funding level for each unit by deducting the combined
36 increase the unit received in funding for:
37 a. At-Risk Student Services/Alternative Schools;
38 b. Improving Student Accountability;
39 c. Low-Wealth Supplemental Funding; and
40 d. Small County Supplemental Funding.

41 The resulting amount shall be the funding level for the local school administrative unit.

42 **SECTION 7.7A.(e)** Establishment of an LEA Assistance Team Reserve. –
43 After determining the funding level for each eligible local school administrative unit,
44 the State Board shall use the remainder of the ten million dollars (\$10,000,000) to
45 establish an LEA Assistance Team Reserve. The State Board shall allocate funds from
46 the Reserve, on the recommendation of the LEA Assistance Teams, to eligible local
47 school administrative units that need additional funds to implement their plans.
48

49 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

50 **LEA ASSISTANCE PROGRAM**

51 **SECTION 7.8.(a)** Section 7.17 of S.L. 2003-284 reads as rewritten:

52 "SECTION 7.17. Of funds appropriated from the General Fund to State Aid to
53 Local School Administrative Units, the sum of five hundred thousand dollars
54 (\$500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars
55 (\$500,000) for fiscal year 2004-2005 shall be used to provide assistance to the State's

1 low-performing Local School Administrative Units (LEAs) and to assist schools in
2 meeting adequate yearly progress in each subgroup identified in the No Child Left
3 Behind Act of 2001. The State Board of Education shall report to the Office of State
4 Budget and Management, the Fiscal Research Division, and the Joint Legislative
5 Education Oversight Committee on the expenditure of these funds by May 15, 2004,
6 and by December 15, 2005. The report shall contain: (i) the criteria for selecting LEAs
7 and schools to receive assistance, (ii) measurable goals and objectives for the assistance
8 program, (iii) an explanation of the assistance provided, (iv) findings from the
9 assistance program, (v) actual expenditures by category, (vi) recommendations for the
10 continuance of this program, and (vii) any other information the State Board deems
11 necessary. These funds shall not revert at the end of each fiscal year but shall remain
12 available until expended for this purpose."

13 **SECTION 7.8.(b)** This section becomes effective June 30, 2004.
14

15 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

16 **LOCAL EDUCATION AGENCY FLEXIBILITY**

17 **SECTION 7.9.** Section 7.23 of S.L. 2003-284 reads as rewritten:

18 **"SECTION 7.23.** Within 14 days of the date this act becomes law, the State Board
19 of Education shall notify each local school administrative unit of the amount the unit
20 must reduce from State General Fund ~~appropriations~~. appropriations for the 2003-2004
21 fiscal year. Within 14 days of the date the Current Operations and Capital
22 Improvements Appropriations Act of 2004 becomes law, the State Board of Education
23 shall notify each local school administrative unit of the amount the unit must reduce
24 from State General Fund appropriations for the 2004-2005 fiscal year. The State Board
25 shall determine the amount of the reduction for each unit for each fiscal year on the
26 basis of average daily membership.

27 Each unit shall report to the Department of Public Instruction on the discretionary
28 budget reductions it has identified for the 2003-2004 fiscal year for the unit within 30
29 days of the date this act becomes law and ~~by September 1, 2004,~~ within 30 days of the
30 date the Current Operations and Capital Improvements Appropriations Act of 2004
31 becomes law for reductions for the 2004-2005 fiscal year. No later than December 31,
32 2003, the The State Board of Education shall make a summary report to the Office of
33 State Budget and Management and the Fiscal Research Division on all reductions made
34 by the LEAs to achieve this ~~reduction~~. reduction for the 2003-2004 fiscal year by
35 December 31, 2003, and for the 2004-2005 fiscal year by December 31, 2004.

36 For fiscal years 2003-2004 and 2004-2005, the General Assembly urges local school
37 administrators to make every effort to reduce spending whenever and wherever such
38 budget reductions are appropriate as long as the targeted reductions do not directly
39 impact classroom services or any services for students at risk or children with special
40 needs, including those services or supports that are called for in students' Personal
41 Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the
42 allotment categories listed in this paragraph are necessary in order to meet the reduction
43 target, the local board of education shall submit an explanation of the anticipated impact
44 of the reductions to student services along with the budget reductions to the Department
45 of Public Instruction. ~~By August 15, 2004, for fiscal year 2005-2006 and subsequent~~
46 ~~fiscal years, the State Board of Education shall determine the changes to the allotment~~
47 ~~categories to make such reductions permanent. Notwithstanding other provisions of law,~~
48 ~~the State Board of Education has the authority to reduce the proposed funding level of~~
49 ~~any allotment category in the State Public School Fund or the Department of Public~~
50 ~~Instruction in order to carry out the requirements of this section to make changes to the~~
51 ~~proposed continuation budget for the 2005-2007 fiscal biennium. The changes proposed~~
52 ~~by the State Board of Education shall be subject to the approval of the General~~
53 ~~Assembly."~~

54
55 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.9A. Section 7.7(a) of S.L. 2003-284 reads as rewritten:

"SECTION 7.7.(a) Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least six hundred fourteen thousand one hundred forty-eight dollars (\$614,148), excluding textbooks for the 2003-2004 fiscal year and a base of ~~six hundred forty seven thousand four hundred eighty one dollars (\$647,481)~~ six hundred eighty-four thousand five hundred eighteen dollars (\$684,518) for the 2004-2005 fiscal year.
- (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units."

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.10. Section 7.25(a) of S.L. 2003-284 reads as rewritten:

"SECTION 7.25.(a) Of the funds appropriated to the State Board of Education, the Board may use up to fifteen million dollars (\$15,000,000) for the 2003-2004 fiscal year and up to ~~forty seven million seven hundred fifty two thousand eight hundred thirteen dollars (\$47,752,813)~~ thirty-seven million two hundred thirty-nine thousand nine hundred twelve dollars (\$37,239,912) for the 2004-2005 fiscal year for allotments to local boards of education for replacement school buses under G.S. 115C-249(c) and (d). In making these allotments, the State Board of Education may impose any of the following conditions:

- (1) The local board of education must use the funds only to make the first, second, or third year's payment on a financing contract entered into pursuant to G.S. 115C-528.
- (2) The term of a financing contract entered into under this section shall not exceed three years.

- 1 (3) The local board of education must purchase the buses only from
 2 vendors selected by the State Board of Education and on terms
 3 approved by the State Board of Education.
 4 (4) The State Board of Education shall solicit bids for the direct purchase
 5 of buses and for the purchasing of buses through financing. The State
 6 Board of Education may solicit separate bids for financing if the Board
 7 determines that multiple financing options are more cost-efficient.
 8 (5) A bus financed pursuant to this section must meet all federal motor
 9 vehicle safety regulations for school buses.
 10 (6) Any other condition the State Board of Education considers
 11 appropriate."
 12

13 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

14 **K-2 ASSESSMENT**

15 **SECTION 7.11.** G.S.115C-174.11(a) reads as rewritten:

16 **"§ 115C-174.11. Components of the testing program.**

17 (a) Assessment Instruments for First and Second Grades. – The State Board of
 18 Education shall adopt and provide to the local school administrative units
 19 developmentally appropriate individualized assessment instruments consistent with the
 20 Basic Education Program for the first and second grades, rather than standardized tests.
 21 Local school administrative units may use these assessment instruments provided to
 22 them by the State Board for first and second grade students, and shall not use
 23 standardized tests-tests except as required as a condition of receiving a federal grant
 24 under the Reading First Program."
 25

26 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

27 **EVALUATE VALIDITY OF ABC ACCOUNTABILITY SYSTEM**

28 **SECTION 7.12.(a)** G.S. 115C-105.35 reads as rewritten:

29 **"§ 115C-105.35. Annual performance goals.**

30 (a) The School-Based Management and Accountability Program shall (i) focus
 31 on student performance in the basics of reading, mathematics, and communications
 32 skills in elementary and middle schools, (ii) focus on student performance in courses
 33 required for graduation and on other measures required by the State Board in the high
 34 schools, and (iii) hold schools accountable for the educational growth of their students.
 35 To those ends, the State Board shall design and implement an accountability system that
 36 sets annual performance standards for each school in the State in order to measure the
 37 growth in performance of the students in each individual school. At least once every
 38 five years, the State Board shall evaluate the accountability system and modify the
 39 testing standards to assure the standards reasonably reflect the level of performance
 40 necessary to be successful at the next grade level or for more advanced study in the
 41 content area. As part of this evaluation, the Board shall, where available, review the
 42 historical trend data on student academic performance on State tests.

43 (b) For purposes of this Article, ~~beginning school year 2002-2003,~~ the State
 44 Board shall include a "closing the achievement gap" component in its measurement of
 45 educational growth in student performance for each school. The "closing the
 46 achievement gap" component shall measure and compare the performance of each
 47 subgroup in a school's population to ensure that all subgroups as identified by the State
 48 Board are meeting State standards.

49 (c) The State Board shall consider incorporating into the School-Based
 50 Management and Accountability Program a character and civic education component
 51 which may include a requirement for student councils."

52 **SECTION 7.12.(b)** The State Board shall complete its initial evaluation and
 53 any revisions required under G.S. 115C-105.35, as rewritten by subsection (a) of this
 54 section, so that the modified standards are in effect no later than the 2005-2006 school
 55 year.

1
2 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

3 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

4 **SECTION 7.13.** The State Board of Education shall use funds appropriated
5 in this act for State Aid to Local School Administrative Units to provide incentive
6 funding for schools that met or exceeded the projected levels of improvement in student
7 performance during the 2003-2004 school year, in accordance with the ABCs of Public
8 Education Program. In accordance with State Board of Education policy:

- 9 (1) Incentive awards in schools that achieve higher than expected
10 improvements may be up to:
11 a. One thousand five hundred dollars (\$1,500) for each teacher
12 and for certified personnel; and
13 b. Five hundred dollars (\$500.00) for each teacher assistant.
14 (2) Incentive awards in schools that meet the expected improvements may
15 be up to:
16 a. Seven hundred fifty dollars (\$750.00) for each teacher and for
17 certified personnel; and
18 b. Three hundred seventy-five dollars (\$375.00) for each teacher
19 assistant.
20

21 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

22 **DISCONTINUE INEFFECTIVE PROGRAM**

23 **SECTION 7.14.** Section 7.20(a) of S.L. 2003-284 is repealed.
24

25 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

26 **RESTORE VOCATIONAL EDUCATION FUNDING**

27 **SECTION 7.15.(a)** Section 7.37 of S.L. 2003-284 reads as rewritten:

28 ~~"SECTION 7.37. It is the intent of the General Assembly to eliminate funding for~~
29 ~~vocational education in the seventh grade. Local school administrative units shall make~~
30 ~~every effort to focus the vocational education budget reductions on the seventh grade~~
31 ~~for 2003-2004 school year. For the 2004-2005 school year, after making the base~~
32 ~~allotment for each local school administrative unit, the State Board of Education shall~~
33 ~~use the average daily membership for grades eight through twelve only to calculate~~
34 ~~vocational education budget allotments to local school administrative units. For the~~
35 ~~2004-2005 school year, local school administrative units shall take all of the vocational~~
36 ~~education budget reductions for the 2003-2005 biennium in the seventh grade before~~
37 ~~making reductions to other grades. Priority use of these funds should be to provide~~
38 ~~vocational education in grades eight through 12."~~

39 **SECTION 7.15.(b)** G.S. 115C-151 reads as rewritten:

40 **"§ 115C-151. Statement of purpose.**

41 It is the intent of the General Assembly that vocational and technical education be an
42 integral part of the educational process. The State Board of Education shall administer
43 through local boards of education a comprehensive program of vocational and technical
44 education that shall be available to all ~~students~~ students, with priority given to students
45 in grades eight through 12, who desire it in the public secondary schools and middle
46 schools of this State. The purposes of vocational and technical education in North
47 Carolina public secondary schools shall be:

- 48 (1) Occupational Skill Development. – To prepare individuals for paid or
49 unpaid employment in recognized occupations, new occupations, and
50 emerging occupations.
51 (2) Preparation for Advanced Education. – To prepare individuals for
52 participation in advanced or highly skilled vocational and technical
53 education.
54 (3) Career Development; Introductory. – To assist individuals in the
55 making of informed and meaningful occupational choices.

1 It is also legislative intent to authorize the State Board of Education to support
2 appropriate vocational and technical education instruction and related services for
3 individuals who have special vocational and technical education needs which can be
4 fulfilled through a comprehensive vocational and technical education program as
5 designated by State Board of Education policy or federal vocational and technical
6 education legislation."

7 **SECTION 7.15.(c)** G.S. 115C-157 reads as rewritten:

8 "**§ 115C-157. Responsibility of local boards of education.**

9 Each local school administrative unit, shall provide free appropriate vocational and
10 technical education instruction, activities, and services in accordance with the
11 provisions of this Part for all ~~youth~~ youth, with priority given to youth in grades eight
12 through 12, who elect the instruction and shall have responsibility for administering the
13 instruction, activities, and services in accordance with federal and State law and State
14 Board of Education policies."

15
16 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

17 **VISITING INTERNATIONAL FACULTY**

18 **SECTION 7.18.** Section 7.41 of S.L. 2003-284 reads as rewritten:

19 "**SECTION 7.41.** The State Board of Education shall convert teacher positions to
20 dollars for Visiting International Faculty Program teachers for the 2003-2004 fiscal year
21 and the 2004-2005 fiscal year on the basis of the allotted average teacher salary and
22 benefits."

23
24 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

25 **ACCOUNTABILITY ASSESSMENT FOR AGRICULTURAL EDUCATION**

26 **SECTION 7.20.** During the 2004-2005 school year, the State Board of
27 Education shall submit an amended State Career-Technical Education Plan to the
28 United States Department of Education to:

- 29 (1) Permit the State Board to field test the North Carolina Agricultural
30 Education Program Standards and collect data on these Standards for
31 two years;
- 32 (2) Permit the use of the data collected under the field test as an alternative
33 to the end-of-course tests in the Vocational Education Competency
34 Achievement Tracking System (VoCATS) and authorize the use of
35 that data to satisfy the technical attainment requirement for continued
36 Carl D. Perkins funding;
- 37 (3) Require the Department of Public Instruction and the Department of
38 Agricultural Education at North Carolina State University to monitor
39 the program to ensure compliance with all Standards; and
- 40 (4) Authorize the State Board of Education to determine whether to use
41 the North Carolina Agricultural Education Program Standards on a
42 statewide basis if the two years of field testing are successful.

43 The Department of Public Instruction and the Department of Agricultural
44 Education at North Carolina State University shall report on the field test to the Joint
45 Legislative Education Oversight Committee by October 15, 2005.

46
47 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

48 **ADDITIONAL TEACHER POSITIONS FOR THIRD GRADE**

49 **SECTION 7.21.(a)** The maximum class size limits for third grade
50 established by the State Board of Education for the 2004-2005 school year shall be
51 reduced by two from the 2003-2004 limits based on an allotment ratio of one teacher for
52 every 20.23 students.

53 **SECTION 7.21.(b)** For the 2004-2005 school year, local school
54 administrative units shall use these additional teacher positions to reduce class size in
55 third grade.

1
2 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

3 **HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM**

4 **SECTION 7.22.(a)** Funds are appropriated in this act for a high school
5 workforce development program. The purpose of the program shall be to identify
6 students who may not plan to attend or be adequately prepared to attend a two- or
7 four-year degree program and to provide the assistance those students need to earn an
8 Associate Degree the year after their senior year in high school. The Department of
9 Public Instruction shall work closely with the Education Cabinet and the New Schools
10 Project in administering the program.

11 These funds shall be used to establish five pilot projects in which a local
12 school administrative unit, two- and four-year colleges and universities, and local
13 employers work together to ensure that high school and community college curricula
14 operate seamlessly and meet the needs of participating employers.

15 **SECTION 7.22.(b)** The State Board of Education shall conduct an annual
16 evaluation of this program. The evaluation shall include (i) an assessment of the overall
17 impact of this program on student achievement, retention, and employability, (ii) an
18 accounting of how funds and personnel resources were utilized and their impact on
19 student achievement, retention, and employability, and (iii) recommendations for
20 continuance and improvement of the program. The State Board of Education shall
21 report the results of this evaluation to the Office of State Budget and Management, the
22 Joint Legislative Education Oversight Committee, and the Fiscal Research Division, by
23 September 15 of each year.

24
25 Requested by: Senators Rand, Thomas, Lucas, Swindell, Garrou, Dalton, Hagan

26 **FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH**
27 **ALTERNATIVES THERAPEUTIC CAMP**

28 **SECTION 7.22A.** If a school-age child is placed in an Eckerd Youth
29 Alternatives therapeutic camp, the local school administrative unit in which the child
30 resides shall pay Eckerd Youth Alternatives for the educational services to the child.
31 For each day that the child receives educational services at the camp, the unit shall pay a
32 maximum of one-one hundred eightieth (1/180) of the annual amount a charter school
33 located in that unit would receive in State funds for that child, for a maximum of 180
34 days in a fiscal year.

35
36 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

37 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW**
38 **STUDENT INFORMATION SYSTEM**

39 **SECTION 7.23.** The Office of State Budget and Management shall, after
40 consultation with the Department of Public Instruction, modify the budget structure for
41 funds budgeted for the Uniform Education Reporting System to separate funds for the
42 development and implementation of NC WISE from funds for other reporting systems.
43 The modified structure shall provide a level of detail sufficient to isolate expenditures
44 for each project.

45
46 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

47 **IMPLEMENTATION OF ALTERNATE COMPETENCY TESTS**

48 **SECTION 7.27.** Section 2 of S.L. 2003-275 reads as rewritten:

49 **"SECTION 2.** This act becomes effective July 1, 2003. G.S. 115C-174.11(b)(3a), as
50 created in Section 1 of this act, shall be implemented no later than the 2004-2005 school
51 year. The State Board of Education shall adopt or develop and validate the alternate
52 tests required under G.S. 115C-174.11(b)(3), as amended by Section 1 of this act, no
53 later than April 15, 2005, and shall implement these alternate tests beginning with the
54 2005-2006 school year."
55

1 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
2 **TEACHERS FOR GEOGRAPHICALLY ISOLATED SCHOOLS**

3 **SECTION 7.28.** The Allotment Policy Manual authorizes the allotment of
4 additional classroom teachers to a school with an average daily membership of less than
5 100, when consolidation is not feasible due to the geographic isolation of the school. In
6 exercising its discretion under this policy, the State Board of Education shall ensure that
7 there is at least one classroom teacher allotted for each grade level at the school.

8
9 Requested by: Senators Albertson, Lucas, Swindell, Garrou, Dalton, Hagan
10 **ENHANCE NUTRITION IN SCHOOL FOOD PROGRAM**

11 **SECTION 7.29.(a)** G.S. 115C-264 reads as rewritten:
12 **"§ 115C-264. Operation.**

13 In the operation of their public school food programs, the public schools shall
14 participate in the National School Lunch Program established by the federal
15 government. The program shall be under the jurisdiction of the Division of School Food
16 Services of the Department of Public Instruction and in accordance with federal
17 guidelines as established by the Child Nutrition Division of the United States
18 Department of Agriculture.

19 In the operation of their public school food programs, the public schools shall for
20 nutritional purposes use cooking oils that do not contain trans fatty acids.

21 Each school may, with the approval of the local board of education, sell soft drinks
22 to students so long as soft drinks are not sold (i) during the lunch period, (ii) at
23 elementary schools, or (iii) contrary to the requirements of the National School Lunch
24 Program.

25 All school food services shall be operated on a nonprofit basis, and any earnings
26 therefrom over and above the cost of operation as defined herein shall be used to reduce
27 the cost of food, to serve better food, or to provide free or reduced-price lunches to
28 indigent children and for no other purpose. The term "cost of operation" shall be defined
29 as actual cost incurred in the purchase and preparation of food, the salaries of all
30 personnel directly engaged in providing food services, and the cost of nonfood supplies
31 as outlined under standards adopted by the State Board of Education. "Personnel" shall
32 be defined as food service supervisors or directors, bookkeepers directly engaged in
33 food service record keeping and those persons directly involved in preparing and
34 serving food: Provided, that food service personnel shall be paid from the funds of food
35 services only for services rendered in behalf of lunchroom services. Any cost incurred
36 in the provisions and maintenance of school food services over and beyond the cost of
37 operation shall be included in the budget request filed annually by local boards of
38 education with boards of county commissioners. It shall not be mandatory that the
39 provisions of G.S. 115C-522(a) and 143-129 be complied with in the purchase of
40 supplies and food for such school food services."

41 **SECTION 7.29.(b)** This section becomes effective January 1, 2005.
42

43 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
44 **ENCOURAGE LEAS TO APPLY FOR E-RATE REIMBURSEMENTS**

45 **SECTION 7.30.** The State Board of Education shall identify all local school
46 administrative units not applying for reimbursements under the federal E-rate Program
47 and shall encourage and provide them with technical assistance on doing so.
48

49 Requested by: Senators Garwood, Lucas, Swindell, Garrou, Dalton, Hagan
50 **STUDY THE EFFICACY OF PROVIDING FOR STAFF DEVELOPMENT**
51 **THROUGH REGIONAL EDUCATION SERVICE ALLIANCES**

52 **SECTION 7.31.** The Joint Legislative Education Oversight Committee may
53 consider the efficacy of providing for staff development in the core curricular areas
54 through teacher-on-loan positions at Regional Education Service Alliances (RESAs).
55 The Regional Education Service Alliances would:

- 1 (1) Establish a uniform system of delivery that provides member school
2 systems with the opportunity for consistent professional development
3 activities;
- 4 (2) Expand services to member school systems, which include regional,
5 on-site, and follow-up training for educators in the core curricular
6 areas;
- 7 (3) Employ content specialists highly knowledgeable of the North
8 Carolina Standard Course of Study as consistent and reliable resources
9 for member school districts; and
- 10 (4) Identify, communicate, and assist with the implementation of State
11 educational initiatives.

12 The positions would be under the direction and supervision of an on-site RESA director.

13 If the Joint Legislative Education Oversight Committee undertakes the study,
14 the Committee shall report the results of the study to the 2005 General Assembly.
15

16 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

17 **LOCAL SCHOOL CONSTRUCTION FINANCING STUDY**

18 **SECTION 7.32.(a)** Establishment of the Commission. – The Local School
19 Construction Financing Study Commission is established.

20 **SECTION 7.32.(b)** Membership. – The Commission shall be composed of
21 18 members, as follows:

- 22 (1) One member appointed by the Governor, after consultation with the
23 President Pro Tempore of the Senate and the Speaker of the House of
24 Representatives, who shall serve as chair;
- 25 (2) Eight members appointed by the President Pro Tempore of the Senate:
26 two members of the Senate from urban areas, two members of the
27 Senate from rural areas, one member representing a large,
28 fast-growing, urban school administrative unit that is a plaintiff in the
29 Leandro school-financing litigation, one member from the financial
30 services industry, one county commissioner, and one educator;
- 31 (3) Eight members appointed by the Speaker of the House of
32 Representatives: two members of the House of Representatives from
33 urban areas, two members of the House of Representatives from rural
34 areas, one member representing a rural school administrative unit that
35 is a plaintiff in the Leandro school-financing litigation, one member
36 who is knowledgeable about municipal and school finance, one school
37 board member, and one educator; and
- 38 (4) The State Treasurer or a designee.

39 Vacancies shall be filled by the appointing authority.

40 **SECTION 7.32.(c)** Duties of the Commission. – The Commission shall
41 examine the present system of local financing for school facilities and shall study
42 alternative options for financing local school construction, renovation, repair, and
43 maintenance. The Commission may study and consider public-private partnerships for
44 school construction and facility ownership, sale lease-back arrangements, private and
45 commercial financing arrangements, design standards for school facilities that may
46 facilitate alternative financing techniques, alternative local revenue sources for
47 financing school facilities, the use of real estate investment trusts, State and local
48 construction bond pools, and any other financing issues deemed pertinent by the
49 Commission.

50 **SECTION 7.32.(d)** Expenses of Members. – Members of the Commission
51 shall receive per diem, subsistence, and travel allowances in accordance with
52 G.S. 120-3.1, 138-5, or 138-6, as appropriate.

53 **SECTION 7.32.(e)** Consultants and Other Staff. – The Commission may
54 hire consultants to provide research, staff support, and information about school
55 financing in other states to the Commission, in accordance with G.S. 120-32.02. The

1 Legislative Services Office, with the prior approval of the Legislative Services
2 Commission, shall also assign professional and clerical staff to assist the Commission in
3 its work.

4 **SECTION 7.32.(f) Cooperation by Government Agencies.** – The
5 Commission may call upon any department, agency, institution, or officer of the State or
6 any political subdivision of the State for facilities, data, or other assistance. All State
7 departments and agencies, local governments, and their subdivisions shall cooperate
8 with the Commission and, upon request, shall furnish the Commission and its staff any
9 information in their possession or available to them.

10 **SECTION 7.32.(g) Meetings During Legislative Session.** – The
11 Commission may meet during a regular or extra session of the General Assembly.

12 **SECTION 7.32.(h) Meeting Location.** – The Legislative Services
13 Commission shall grant adequate meeting space to the Commission in the State
14 Legislative Building or the Legislative Office Building. The Commission may also
15 meet at various locations around the State in order to promote greater public
16 participation in its deliberations.

17 **SECTION 7.32.(i) Reports.** – The Commission shall make an interim report
18 to the 2005 General Assembly no later than January 31, 2005, and a final report to the
19 2006 Regular Session of the 2005 General Assembly no later than March 31, 2006. The
20 final report shall contain recommendations for legislation to implement
21 recommendations made by the Commission. The interim report may also contain
22 recommendations for legislation. The Commission shall terminate on March 31, 2006.

23 **SECTION 7.32.(j) Notwithstanding the provisions of G.S. 115C-546.1(b),**
24 the Secretary of Revenue shall remit to the State Treasurer for credit to the General
25 Assembly the sum of one hundred thousand dollars (\$100,000) of the funds to be
26 deposited in the Public School Building Capital Fund pursuant to G.S. 115C-546.1(b)
27 during the 2004-2005 fiscal year. These funds shall be used for the expenses of the
28 Local School Construction Financing Study Commission. The Commission may also
29 apply for, receive, or accept grants and contributions, subject to the provisions of
30 G.S. 120-32.03, to support the work of the Commission.

31
32 Requested by: Senator Lucas

33 **CHILDREN'S TRUST FUND**

34 **SECTION 7.33.(a)** The Department of Public Instruction, in carrying out its
35 duties and responsibilities under Article 13 of Chapter 7B of the General Statutes, shall
36 collaborate with the Division of Social Services and with statewide child abuse and
37 neglect prevention experts with regards to the following:

- 38 (1) Best practices in child abuse and neglect prevention programs and
39 policies.
- 40 (2) Exploration of additional revenue sources for the protection of children
41 in this State.
- 42 (3) Educational programs to ensure statewide awareness of the Children's
43 Trust Fund, and its purpose and mission.

44 **SECTION 7.33.(b)** The Department of Public Instruction shall report
45 annually on revenues and expenditures of the Children's Trust Fund to the Joint
46 Legislative Commission on Governmental Operations.

47 **PART VIII. COMMUNITY COLLEGES**

48
49
50 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

51 **USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT**

52 **SECTION 8.1.(a)** Funds appropriated to the Community Colleges System
53 Office for the College Information System Project shall not revert at the end of the
54 2003-2004 fiscal year but shall remain available until expended.

1 **SECTION 8.1.(b)** The Community Colleges System Office shall report on a
 2 quarterly basis to the Joint Legislative Education Oversight Committee on the
 3 implementation of the College Information System Project.

4 **SECTION 8.1.(c)** Subsection (a) of this section becomes effective June 30,
 5 2004.

6
 7 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

8 **CARRYFORWARD FOR EQUIPMENT**

9 **SECTION 8.2.(a)** Subject to the approval of the Office of State Budget and
 10 Management and cash availability, the North Carolina Community Colleges System
 11 may carry forward an amount not to exceed ten million dollars (\$10,000,000) of the
 12 operating funds held in reserve that were not reverted in fiscal year 2003-2004 to be
 13 reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These
 14 funds shall be distributed to colleges consistent with G.S. 115D-31.

15 **SECTION 8.2.(b)** This section becomes effective June 30, 2004.

16
 17 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

18 **SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL**
 19 **STAFF**

20 **SECTION 8.3.(a)** It is the intent of the General Assembly to establish a
 21 community college faculty salary plan that (i) provides accountability to the General
 22 Assembly, (ii) maintains local flexibility and autonomy for the community colleges, and
 23 (iii) ensures that community college faculty members have a uniform minimum salary
 24 based on level of education, equivalent applicable experience, or both.

25 It is imperative that the State move community college faculty and
 26 professional staff salaries to the national average. The estimated incremental costs of
 27 doing so over five years are thirty-three million two hundred eighty-nine thousand three
 28 hundred seventy-one dollars (\$33,289,371) for the 2004-2005 fiscal year, twenty-one
 29 million ninety-two thousand sixty-six dollars (\$21,092,066) for the 2005-2006 fiscal
 30 year, twenty-one million five hundred seventy-four thousand five hundred three dollars
 31 (\$21,574,503) for the 2006-2007 fiscal year, twenty-two million ninety-five thousand
 32 five hundred thirty-two dollars (\$22,095,532) for the 2007-2008 fiscal year, and twelve
 33 million four hundred twenty-seven thousand five hundred thirty-one dollars
 34 (\$12,427,531) for the 2008-2009 fiscal year.

35 **SECTION 8.3.(b)** The minimum salaries for community college faculty
 36 shall be based on the following education levels:

- 37 (1) Vocational Diploma/Certificate or Less. – This education level
 38 includes faculty members who are high school graduates, have
 39 vocational diplomas, or have completed one year of college.
- 40 (2) Associates Degree or Equivalent. – This education level includes
 41 faculty members who have an associates degree or have completed
 42 two or more years of college but have no degree.
- 43 (3) Bachelors Degree.
- 44 (4) Masters Degree or Education Specialist.
- 45 (5) Doctoral Degree.

46 **SECTION 8.3.(c)** For the 2004-2005 school year, the minimum salaries for
 47 nine-month, full-time, curriculum community college faculty shall be as follows:

48 Education Level	Minimum Salary
49 Vocational Diploma/Certificate or Less	\$28,512
50 Associates Degree or Equivalent	\$28,944
51 Bachelors Degree	\$30,817
52 Masters Degree or Education Specialist	\$32,478
53 Doctoral Degree	\$34,874.

54 No full-time faculty member shall earn less than the minimum salary for his or her
 55 education level.

1 The pro rata hourly rate of the minimum salary for each education level shall
2 be used to determine the minimum salary for part-time faculty members.

3 **SECTION 8.3.(d)**

- 4 (1) It is the intent of the General Assembly to encourage community
5 colleges to make faculty salaries a priority and to reward colleges that
6 have taken steps to achieve the national average, therefore:
7 a. If the average faculty salary at a community college is one
8 hundred percent (100%) or more of the national average
9 community college faculty salary, the college may transfer up
10 to eight percent (8%) of the State funds allocated to it for
11 faculty salaries.
12 b. If the average faculty salary at a community college is at least
13 ninety-five percent (95%) but less than one hundred percent
14 (100%) of the national average community college faculty
15 salary, the college may transfer up to six percent (6%) of the
16 State funds allocated to it for faculty salaries.
17 c. If the average faculty salary at a community college is at least
18 ninety percent (90%) but less than ninety-five percent (95%) of
19 the national average community college faculty salary, the
20 college may transfer up to five percent (5%) of the State funds
21 allocated to it for faculty salaries.
22 d. If the average faculty salary at a community college is at least
23 eighty-five percent (85%) but less than ninety percent (90%) of
24 the national average community college faculty salary, the
25 college may transfer up to three percent (3%) of the State funds
26 allocated to it for faculty salaries.
27 e. If the average faculty salary at a community college is
28 eighty-five percent (85%) or less of the national average
29 community college faculty salary, the college may transfer up
30 to two percent (2%) of the State funds allocated to it for faculty
31 salaries.

32 Except as provided by subdivision (2) of this subsection, a
33 community college shall not transfer a greater percentage of the State
34 funds allocated to it for faculty salaries than is authorized by this
35 subsection.

- 36 (2) With the approval of the State Board of Community Colleges, a
37 community college at which the average faculty salary is eighty-five
38 percent (85%) or less of the national average may transfer a greater
39 percentage of the State funds allocated to it for faculty salaries than is
40 authorized by sub-subdivision e. of subdivision (1) of this subsection.
41 The State Board shall approve the transfer only for purposes that
42 directly affect student services.

43 The State Board of Community Colleges shall adopt rules to
44 implement the provisions of this subdivision.

- 45 (3) A local community college may use all State funds allocated to it
46 except for Literacy Funds and Funds for New and Expanding
47 Industries to increase faculty salaries.

48 **SECTION 8.3.(e)** As used in this section:

- 49 (1) "Average faculty salary at a community college" means the total
50 nine-month salary from all sources of all nine-month, full-time,
51 curriculum faculty at the college, as determined by the North Carolina
52 Community College System on October 1 of each year.
53 (2) "National average community college faculty salary" means the
54 nine-month, full-time, curriculum salary average, as published by the

1 Integrated Postsecondary Education Data System (IPEDS), for the
2 most recent year for which data are available.

3 **SECTION 8.3.(f)** The State Board of Community Colleges shall adopt rules
4 to implement the provisions of this section.

5 **SECTION 8.3.(g)** The State Board of Community Colleges shall report to
6 the appropriations subcommittees on education, the Speaker of the House of
7 Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division,
8 and the Office of State Budget and Management by December 1, 2004, and every year
9 thereafter through December 1, 2009, on the implementation of this section.

10 **SECTION 8.3.(h)** Funds appropriated in this act for salary increases shall be
11 used to:

- 12 (1) Implement the minimum salaries set out in subsection (c) of this
13 section. Funds shall be allocated to those colleges with faculty below
14 the minimum salary in each education level as determined by the
15 North Carolina Community College System. These funds shall only be
16 used to bring the salaries of full-time faculty members to the
17 applicable minimum; and
- 18 (2) Increase faculty and professional staff salaries by an average of two
19 percent (2%). These increases are in addition to other salary increases
20 provided for in this act and shall be calculated on the average salaries
21 prior to the issuance of the compensation increase. Colleges may
22 provide additional increases from funds available.

23 The State Board of Community Colleges shall adopt rules to ensure that these
24 funds are used only to move faculty and professional staff to the respective national
25 averages. These funds shall not be transferred by the State Board or used for any other
26 budget purpose by the community colleges.

27
28 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

29 **MODIFY REPORTING REQUIREMENT FOR NEW AND EXPANDING**
30 **INDUSTRY TRAINING PROGRAM**

31 **SECTION 8.4.** G.S.115D-5(i) reads as rewritten:

32 "(i) The State Board of Community Colleges shall report to the Joint Legislative
33 Education Oversight Committee on ~~March 1 and October 1~~ September 1 of each year on
34 expenditures for the New and Expanding Industry Program each fiscal year. The report
35 shall include, for each company or individual that receives funds for New and
36 Expanding Industry:

- 37 (1) The total amount of funds received by the company or individual;
- 38 (2) The amount of funds per trainee received by the company or
39 individual;
- 40 (3) The amount of funds received per trainee by the community college
41 training the trainee;
- 42 (4) The number of trainees trained by company and by community
43 college; and
- 44 (5) The number of years the companies or individuals have been funded."

45
46 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

47 **NEW AND EXPANDING INDUSTRIES TRAINING PROGRAM FUNDS**

48 **SECTION 8.5.(a)** Funds available to the New and Expanding Industries
49 Program shall not revert at the end of the 2003-2004 fiscal year but shall remain
50 available until expended.

51 **SECTION 8.5.(b)** This section becomes effective June 30, 2004.

52
53 Requested by: Senators Hoyle, Lucas, Swindell, Garrou, Dalton, Hagan

54 **CENTER FOR APPLIED TEXTILE TECHNOLOGY/MODIFY BOARD**
55 **MEMBERSHIP**

1 **SECTION 8.6.** G.S. 115D-68 reads as rewritten:

2 "**§ 115D-68. Creation of board of trustees; members and terms of office; no**
3 **compensation.**

4 The North Carolina Center for Applied Textile Technology shall be managed,
5 subject to policies and regulations of the State Board of Community Colleges, by a
6 board of trustees. The board of trustees shall consist of ~~the President of the North~~
7 ~~Carolina System of Community Colleges~~ and nine members appointed by the Governor.
8 The terms of office of the trustees ~~appointed by the Governor~~ shall be as follows: Three
9 of the trustees shall be appointed for a term of two years; three for three years; and three
10 for four years. At the expiration of those terms, the appointments shall be made for
11 periods of four years. In the event of any vacancy on the board, the vacancy shall be
12 filled by appointment of the Governor for the unexpired term of the member causing the
13 vacancy. The members of the board of trustees ~~appointed by the Governor~~ shall serve
14 without compensation."
15

16 Requested by: Senators Hoyle, Lucas, Swindell, Garrou, Dalton, Hagan

17 **STUDY OF THE NORTH CAROLINA CENTER FOR APPLIED TEXTILE**
18 **TECHNOLOGY**

19 **SECTION 8.6A.(a)** The State Board of Community Colleges shall study the
20 North Carolina Center for Applied Textile Technology (NCCATT). In the course of the
21 study, the State Board shall consider:

- 22 (1) The mission and purpose of the Center;
- 23 (2) The Center's programs and course of study;
- 24 (3) Any duplication of courses offered by community colleges;
- 25 (4) The Center's expenditures, receipts, and potential funding
26 mechanisms;
- 27 (5) The population served by the Center, including students and industry;
28 and
- 29 (6) The Center's status within the Community College System.

30 The State Board shall seek input, during the course of the study, from representatives of
31 the North Carolina textile industry, members of the NCCATT Board of Trustees, the
32 Department of Commerce, representatives of the School of Textiles at North Carolina
33 State University, the Director of the Hosiery Technology Center at Catawba Valley
34 Community College, and other interested parties.

35 **SECTION 8.6A.(b)** The State Board shall determine whether the Center
36 should (i) remain an independent institution under the Community College System, (ii)
37 be administered by a community college, (iii) be dissolved and the property transferred
38 from State to county ownership, or (iv) be otherwise administered.

39 If the State Board determines that the Center should remain an independent
40 institution under the Community College System or be administered by a community
41 college, the State Board shall identify necessary changes to the Center's organization
42 and funding structure, mission and purpose, programs or services currently offered, and
43 governance.

44 **SECTION 8.6A.(c)** The State Board shall report the results of the study to
45 the Office of State Budget and Management and the Joint Legislative Education
46 Oversight Committee no later than November 30, 2004.
47

48 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

49 **FUNDS FOR THE BUREAU OF TRAINING INITIATIVES**

50 **SECTION 8.7.(a)** The Community Colleges System Office may carry
51 forward the unexpended balance of funds appropriated for the 2003-2004 fiscal year
52 from the Worker Training Trust Fund to the Community College System Office, Bureau
53 of Training Initiatives. These funds shall be used for pilot programs that support the
54 retraining of the existing workforce in new skills related to specific industry sectors.
55 The purposes for which the funds may be used in the pilot programs include targeted

1 assessments, training equipment, software, third-party trainers, and supplies and
2 material costs. Any unexpended balance remaining in this program shall revert to the
3 Worker Training Trust Fund on June 30, 2005.

4 **SECTION 8.7.(b)** This act becomes effective June 30, 2004.

5
6 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

7 **FUNDS FOR THE COMPREHENSIVE ARTICULATION AGREEMENT**
8 **STUDY**

9 **SECTION 8.8.(a)** Section 8.12(h) of S.L. 2003-284 reads as rewritten:

10 **"SECTION 8.12.(h)** The University of North Carolina, Office of the President, and
11 the North Carolina Community College System shall each transfer thirty-five thousand
12 dollars (\$35,000) to the Joint Legislative Education Oversight Committee to carry out
13 this study. Funds transferred by the North Carolina Community College System that are
14 not expended shall not revert on June 30, 2004, but shall remain available for the
15 2004-2005 fiscal year to pay costs associated with the study."

16 **SECTION 8.8.(b)** This section becomes effective June 30, 2004.

17
18 Requested by: Senators Nesbitt, Lucas, Swindell, Garrou, Dalton, Hagan

19 **REPORT ON THE ADEQUACY OF MULTICAMPUS AND OFF-CAMPUS**
20 **CENTER FUNDS**

21 **SECTION 8.9.** The General Assembly finds that additional data is needed to
22 determine the adequacy of multicampus and off-campus center funds; therefore,
23 multicampus colleges and colleges with off-campus centers shall report annually,
24 beginning September 1, 2005, to the Community Colleges System Office on all
25 expenditures by line item of funds used to support their multicampuses and off-campus
26 centers. The Community Colleges System Office shall report on these expenditures to
27 the Education Appropriation Subcommittees of the House of Representatives and the
28 Senate, the Office of State Budget and Management, and the Fiscal Research Division
29 by October 1 of each year.

30 Of the funds appropriated in this act for off-campus centers, twenty thousand
31 dollars (\$20,000) shall be used by the State Board to assist State Board approved centers
32 with less than 50 FTE. The State Board shall allocate these funds to qualifying colleges
33 on the basis of actual FTE enrollment at the centers.

34 Notwithstanding any other provision of law, funds appropriated to the
35 Community Colleges System Office for multicampus colleges or off-campus centers
36 shall be used only for the administration of the multicampus college or off-campus
37 center for which the funds were allotted. These funds shall not be transferred to any
38 other campus or center, or used for any other purpose.

39
40 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

41 **MIDDLE COLLEGE START-UP FUNDS**

42 **SECTION 8.11.(a)** Funds appropriated for a middle college program at
43 Edgecombe Community College shall not revert at the end of the 2003-2004 fiscal year
44 but shall remain available until expended.

45 **SECTION 8.11.(b)** This section becomes effective June 30, 2004.

46
47 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

48 **MATCHING FUNDS FOR THE CAREER START PROJECT**

49 **SECTION 8.12.** Community colleges may use funds earned through the
50 continuation education enrollment allotment for Human Resource Development
51 Programs to match federal grants for the Career Start Project.

52
53 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

54 **STUDY OF FTE FUNDING FORMULA**

1 **SECTION 8.13.** The State Board of Community Colleges shall consider
2 modifications to its funding formulas to ensure that colleges have sufficient funds to
3 adequately serve students when enrollment increases. In the course of the study, the
4 State Board shall consider methods of accurately projecting enrollment for the
5 upcoming academic year and using projected enrollment in its funding formulas. The
6 State Board shall also consider modifications to its funding formulas to ensure that
7 adequate funding is provided for high-cost programs.

8 The State Board shall report the results of its study to the Joint Legislative
9 Education Oversight Committee and to the chairs of the appropriations committees of
10 the House of Representatives and the Senate by January 15, 2005.

11
12 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

13 **CONTINGENCY RESERVES**

14 **SECTION 8.14.** Funds are appropriated in this act for the 2004-2005 fiscal
15 year to create a contingency reserve fund for community college enrollment increases.
16 The State Board of Community Colleges shall use these funds to:

- 17 (1) Increase the FTE allotment for the spring semester of the 2004-2005
18 school year at colleges that experience a total enrollment growth for
19 the fall semester of the 2004-2005 school year of over ten percent
20 (10%). Each such college shall receive an increase in its FTE allotment
21 for the spring semester equal to the amount the enrollment increase
22 exceeded ten percent (10%), insofar as funds are available within the
23 enrollment reserve; and
24 (2) Provide one-time grants to colleges in areas with high unemployment
25 due to manufacturing job losses. These funds shall be used only for
26 additional faculty, guidance counselors, financial aid officers, and
27 equipment that are necessary to meet the specific needs of the workers
28 who are unemployed due to manufacturing job losses.

29 Funds not expended or encumbered for this purpose shall revert to the
30 General Fund at the end of the 2004-2005 fiscal year.

31 The State Board of Community Colleges shall adopt rules to determine
32 eligibility for funds from the contingency reserve.

33
34 Requested by: Senators Holloman, Lucas, Swindell, Garrou, Dalton, Hagan

35 **STATE BOARD RESERVE ALLOCATION FOR MAINTENANCE OF PLANT**

36 **SECTION 8.16.** The State Board of Community Colleges may use up to one
37 hundred thousand dollars (\$100,000) from the State Board Reserve for the 2004-2005
38 fiscal year to assist small rural low-wealth community colleges with operation and
39 maintenance of plant costs if they need to assist new or expanding industries in their
40 service delivery areas.

41
42 Requested by: Senators Rand, Kerr, Thomas, Hargett, Lucas, Swindell, Garrou,
43 Dalton, Hagan

44 **STATEWIDE MILITARY BUSINESS CENTER AND HOMELAND SECURITY**
45 **BUSINESS INCUBATOR**

46 **SECTION 8.17.(a)** Of the funds appropriated in this act to the Community
47 Colleges System Office for a military business center to provide for a statewide system
48 of military procurement. The funds shall be used as follows:

- 49 (1) The sum of two hundred thousand dollars (\$200,000) shall be used by
50 the North Carolina Electronics and Information Technologies
51 Association to develop, in conjunction with MCNC, a proposal for the
52 development and operation of a homeland security business incubator.
53 The North Carolina Electronics and Information Technologies
54 Association shall make a report on this proposal to the 2005 General
55 Assembly no later than February 28, 2005.

- 1 (2) The remainder of these funds shall be used for the development and
 2 operation of a military business center by Fayetteville Technical
 3 Community College. The military business center shall provide
 4 services to residents and businesses throughout the State. These funds
 5 shall be used for:
- 6 a. The development and operation of a statewide business
 7 assistance center. The purpose of the business assistance center
 8 is to serve as a coordinator and facilitator for small- and
 9 medium-sized businesses throughout the State seeking to win
 10 and complete military contracts. Activities of the business
 11 assistance center shall include:
 - 12 1. Training and mentoring eligible businesses on
 13 effectively marketing their products and services to
 14 military clients and contracting offices.
 - 15 2. Assisting eligible businesses with any required
 16 accreditations and qualifications for government
 17 contracting.
 - 18 3. Teaching eligible businesses about federal set-aside
 19 programs and how to take advantage of these programs
 20 directly or through partnering with other eligible
 21 businesses.
 - 22 4. Training and assisting clients with the registration,
 23 proposal development and bidding processes related to
 24 military contracts.
 - 25 5. Training eligible businesses on legal and regulatory
 26 compliance.
 - 27 6. Designing and implementing mentoring programs to
 28 facilitate the development of interrelationships between
 29 eligible businesses.
 - 30 7. Forecasting the need for and assisting eligible businesses
 31 in obtaining advanced certifications and accreditations
 32 and advanced manufacturing skills and technologies.
 - 33 8. Assisting eligible businesses in advising military clients
 34 on retaining project funding.
 - 35 9. Working with Small Business Centers throughout the
 36 State to carry out these activities on a statewide basis.
 - 37 b. The development and maintenance of an Internet-based system
 38 to match the knowledge, skills, and abilities of active-duty
 39 military personnel, veterans, and their families throughout the
 40 State with the needs of North Carolina businesses.
 - 41 c. The study of community resources and existing business
 42 capacity to meet the current and future needs of the military and
 43 the development of proposals for further developing community
 44 resources and developing or recruiting new businesses to meet
 45 those needs.
 - 46 d. The marketing of the services provided by the military business
 47 center.
 - 48 e. The planning and implementation of the development of an
 49 industrial park to house military contractors.

50 These funds shall not revert at the end of the fiscal year but shall remain available for
 51 expenditure for these purposes.

52 **SECTION 8.17.(b)** G.S. 66-58(c) is amended by adding a new subdivision
 53 to read:

54 "(3b) The operation of a military business center by a community college.
 55 For the purposes of this subdivision, the term 'military business center'

1 means a facility that serves to coordinate and facilitate interactions
2 between the United States Armed Forces; military personnel, veterans,
3 and their families; and private businesses."
4

5 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

6 **NURSING SCHOLARSHIPS FOR WORTHY AND NEEDY STUDENTS**

7 **SECTION 8.18.(a)** Chapter 115D of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 115D-40.2. Nursing Scholarship Program.**

10 (a) There is established the Nursing Scholarship Program. The purpose of the
11 Program is to address the critical shortage of nurses in the State by providing two-year
12 scholarship loans to worthy and needy North Carolinians to enable them to study
13 nursing at community colleges. The State Education Assistance Authority shall
14 administer the Program.

15 (b) Criteria for awarding the scholarship loans shall be developed by the State
16 Board of Community Colleges, in consultation with the North Carolina Board of
17 Nursing, and shall include all of the following:

18 (1) An applicant shall be a worthy and needy student who is resident of
19 this State. For purposes of this section, residency shall be determined
20 by the same standard as residency for tuition purposes pursuant to
21 G.S. 116-143.1.

22 (2) An applicant shall be enrolled in an accredited nursing program at an
23 institution of the North Carolina Community College System.

24 (3) Any additional criteria that the State Board of Community Colleges
25 considers necessary to administer the Program effectively, including
26 all of the following:

27 a. Consideration of the appropriate numbers of minority
28 applicants, applicants from diverse socioeconomic
29 backgrounds, and applicants from the various geographical
30 regions of the State, to receive scholarships pursuant to this
31 section.

32 b. Consideration of the academic qualifications of the individuals
33 applying to receive funds.

34 c. Consideration of the commitment an individual applying to
35 receive funds demonstrates to practicing nursing in North
36 Carolina.

37 (c) All scholarship loans shall be evidenced by notes made payable to the State
38 Education Assistance Authority that bear interest at the rate of ten percent (10%) per
39 year beginning 90 days after completion of the nursing education program, or 90 days
40 after termination of the scholarship loan, whichever is earlier. The scholarship loan may
41 be terminated upon the recipient's withdrawal from school or by the recipient's failure to
42 meet the standards set by the State Board of Community Colleges for continuation in
43 the Nursing Scholarship Program.

44 (d) The State Education Assistance Authority shall forgive the loan if, within five
45 years after graduation from a nursing education program, the recipient practices nursing
46 in North Carolina for one year for every year a scholarship loan was provided. If the
47 recipient repays the scholarship loan by cash payments, all indebtedness shall be repaid
48 within 10 years. The Authority may provide for accelerated repayment and for less than
49 full-time employment options to encourage the practice of nursing in either geographic
50 or nursing specialty shortage areas. The Authority may forgive the scholarship loan if it
51 determines that it is impossible for the recipient to practice nursing in North Carolina
52 for a sufficient time to repay the loan because of the death or permanent disability of the
53 recipient within 10 years following graduation or termination of enrollment in a nursing
54 education program.

1 (e) The State Board of Community Colleges shall: (i) prepare a clear written
2 explanation of the Nursing Scholarship Program and information regarding the
3 availability and criteria for awarding the scholarship loans, (ii) provide that information
4 to the appropriate counselors in each local school administrative unit, and (iii) charge
5 those counselors to inform students about the scholarship loans and to encourage
6 students to apply for the scholarship loans.

7 (f) The State Board of Community Colleges shall adopt rules to implement this
8 section."

9 **SECTION 8.18.(b)** The General Assembly urges the North Carolina Board
10 of Nursing to maximize the number of authorized nursing slots within the North
11 Carolina Community College System and to expand the number of approved nursing
12 sites for clinical education.

13 **SECTION 8.18.(c)** There is appropriated from the Escheat Fund to the
14 Community Colleges System Office the sum of five million dollars (\$5,000,000) for
15 the 2004-2005 fiscal year to provide for nursing scholarships in accordance with
16 G.S. 115D-40.2, as enacted in subsection (a) of this section.

17 18 **PART IX. UNIVERSITIES**

19
20 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

21 **UNC FLEXIBILITY GUIDELINES**

22 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
23 the Board of Governors of The University of North Carolina on the management
24 flexibility adjustments made to the General Fund budget codes in order to meet the
25 reserve amounts for that institution. The President of The University of North Carolina
26 shall report to the Board of Governors of The University of North Carolina on the
27 reductions made to the General Fund budget codes controlled by the Board in order to
28 meet the reduction reserve amounts for those entities. The Board of Governors shall
29 make a summary report to the Office of State Budget and Management and the Fiscal
30 Research Division by December 31, 2004, on all reductions made by these entities and
31 constituent institutions in order to reduce the budgets by the targeted amounts.

32
33 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

34 **NEED-BASED FINANCIAL AID FROM ESCHEAT FUNDS**

35 **SECTION 9.2.(a)** There is appropriated from the Escheat Fund to the Board
36 of Governors of The University of North Carolina the sum of forty-one million three
37 hundred forty-four thousand dollars (\$41,344,000) for the 2004-2005 fiscal year and to
38 the State Board of Community Colleges the sum of seven hundred eighteen thousand
39 three hundred ninety-six dollars (\$718,396) for the 2004-2005 fiscal year. These funds
40 shall be allocated by the State Educational Assistance Authority for need-based student
41 financial aid in accordance with G.S. 116B-7 and this act. The use of principal is
42 allowed if interest income is insufficient.

43 **SECTION 9.2.(b)** The Director of the Budget shall include General Fund
44 appropriations in the amounts provided in subsection (a) of this section in the proposed
45 2005-2007 fiscal biennium continuation budget for the purposes provided in
46 G.S. 116B-7.

47 **SECTION 9.2.(c)** There is appropriated from the Escheat Fund to the Board
48 of Governors of The University of North Carolina the sum of three hundred ninety
49 thousand dollars (\$390,000) for the 2004-2005 fiscal year to be allocated to the State
50 Education Assistance Authority for need-based student financial aid to be used in
51 accordance with G.S. 116B-7 and this act. The State Education Assistance Authority
52 shall use these funds only to provide scholarship loans to North Carolina high school
53 seniors interested in preparing to teach in the State's public schools who also enroll at
54 any of the Historically Black Colleges and Universities that do not have Teaching
55 Fellows. An allocation of 20 grants of six thousand five hundred dollars (\$6,500) each

1 shall be given to the three universities without any Teaching Fellows for the purposes
2 specified in this subsection. The State Education Assistance Authority shall administer
3 these funds and shall establish any additional criteria needed to award these scholarship
4 loans, the conditions for forgiving the loans, and the collection of the loan repayments
5 when necessary.

6
7 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

8 **AREA HEALTH EDUCATION CENTER (AHEC) FUNDS**

9 **SECTION 9.3.** Of the funds appropriated by this act to the Board of
10 Governors of The University of North Carolina for the 2004-2005 fiscal year and in all
11 subsequent fiscal years, the Board of Governors shall allocate the sum of twenty-four
12 thousand dollars (\$24,000) to the Region L AHEC program on an annual basis for
13 information highway line charges.

14
15 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

16 **UNC BOND PROJECT MODIFICATIONS**

17 **SECTION 9.4.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General
18 Assembly finds that it is in the best interest of the State to respond to current
19 educational and research program requirements at North Carolina Agricultural &
20 Technical State University by:

- 21 (1) Substituting a project entitled "New School of Education" for a project
22 entitled "Central Cooling Plant Phase I" as contained in Section 2(a) of
23 S.L. 2000-3, as it has been determined, based on an independent
24 engineering analysis, that the cooling plant project is not technically
25 feasible.
- 26 (2) The cancellation of "New Student Housing" and "Curtis Residence
27 Hall-Replacement." The money from "New Student Housing" and
28 "Curtis Residence Hall-Renovation" should be transferred to "Scott
29 Residence Hall-Replacement."
- 30 (3) The cancellation of "Holland Residence Hall-Comprehensive
31 Renovation." The unused money should be transferred to "Zoe Barbee
32 Residence Hall-Comprehensive Renovation."

33 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North
34 Carolina Agricultural & Technical State University as follows:

- 35 (1) By substituting the "New School of Education" for "Central Cool
36 Plant-Phase I."
- 37 (2) By deleting "New Student Housing 1,897,900" and "Curtis Residence
38 Hall-Replacement 3,723,500" and by amending "Scott Residence
39 Hall-Replacement" to create a total allocation of thirty-one million
40 eight hundred seventy-four thousand seven hundred dollars
41 (\$31,874,700).
- 42 (3) By deleting "Holland Residence Hall-Comprehensive Renovation
43 856,800" and by amending "Zoe Barbee Residence
44 Hall-Comprehensive Renovation" to create a total allocation of four
45 million five hundred fifty thousand six hundred dollars (\$4,550,600).

46 **SECTION 9.4.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General
47 Assembly finds that it is in the best interest of the State to respond to current
48 educational and research program requirements at East Carolina University to reduce
49 the scope of "Expansion & Renovation of the Old Nursing Building" by three million
50 dollars (\$3,000,000) to a total allocation of eleven million six hundred eighty-five
51 thousand five hundred dollars (\$11,685,500) and transferring the unused funds to " 'Old
52 Cafeteria' Office Building-Comprehensive Renovation for Student Services/Academic
53 Use" to create a total allocation of seven million four hundred forty-two thousand one
54 hundred dollars (\$7,442,100).

1 Section 2(a) of S.L. 2000-3 is therefore amended under the portion under East
2 Carolina University by reduction of allocations for the project entitled "Expansion and
3 Renovation of the Old Nursing Building 14,685,500" by three million dollars
4 (\$3,000,000) to a total allocation of eleven million six hundred eighty-five thousand five
5 hundred dollars (\$11,685,500) and the addition of the money to allocations for the
6 project entitled " 'Old Cafeteria' Office Building-Comprehensive Renovation for
7 Student Services/Academic Use 4,442,100" by three million dollars (\$3,000,000) to
8 create a total allocation of seven million four hundred forty-two thousand one hundred
9 dollars (\$7,442,100).

10 **SECTION 9.4.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General
11 Assembly finds that it is in the best interest of the State to respond to current
12 educational and research program requirements at the University of North Carolina at
13 Wilmington, due to growth in enrollment and programs offered, by reducing the scope
14 of the comprehensive renovation of the "Alderman Hall Classroom Building" and by
15 reducing the scope of the comprehensive renovation of the "Kenan Auditorium," both as
16 contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds
17 allocated to these two projects to the comprehensive renovation of the "King Hall
18 Classroom Building," "James Hall Classroom Building," and "Kenan Hall Classroom
19 Building," as contained in Section 2(a) of S.L. 2000-3.

20 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the
21 University of North Carolina at Wilmington, by reducing the money allocated to
22 "Alderman Hall Classroom Building" by two million two hundred four thousand six
23 hundred fifty-two dollars (\$2,204,652) to create a total allocation of seven hundred
24 thirty-six thousand one hundred forty-eight dollars (\$736,148), by reducing the monies
25 allocated to "Kenan Auditorium" by one million one hundred seventy-three thousand
26 three hundred twenty-five dollars (\$1,173,325) to create a total allocation of one million
27 nine hundred twenty-one thousand nine hundred seventy-five dollars (\$1,921,975) and
28 by reallocating the money saved as follows: increase the budget of "King Hall" from
29 two million six hundred ninety-seven thousand four hundred dollars (\$2,697,400) to
30 three million five hundred twenty-seven thousand four hundred dollars (\$3,527,400),
31 increase the budget for "Hinton James Hall" from one million four hundred sixty-eight
32 thousand dollars (\$1,468,000) to two million eight hundred fifty-four thousand
33 twenty-five dollars (\$2,854,025), and increase the budget of "Kenan Hall" from three
34 million fifty-six thousand six hundred dollars (\$3,056,600) to four million two hundred
35 eighteen thousand five hundred fifty-two dollars (\$4,218,552).

36 **SECTION 9.4.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General
37 Assembly finds that it is in the best interests of the State to respond to current
38 educational and research program requirements at Fayetteville State University by
39 changing the scope of the "Comprehensive Renovation and Conversion of Spaulding
40 (Old Infirmary) for Public Safety Facilities" to "Comprehensive Renovation of
41 Spaulding for Student Health Services and Student Counseling."

42 Section 2(a) of S.L. 2000-3 is therefore amended by retitling the project
43 currently entitled "Comprehensive Renovation and Conversion of Spaulding (Old
44 Infirmary) for Public Safety Facilities" to "Comprehensive Renovation of Spaulding for
45 Student Health Services and Student Counseling."

46 **SECTION 9.4.(e)** Pursuant to Section 2(b) of S.L. 2000-3, the General
47 Assembly finds that it is in the best interests of the State to respond to current
48 educational and research program requirements at Fayetteville State University by
49 reallocating unused money from the "William Collins Building Renovation" to a new
50 project entitled "Mitchell Building Renovation for use by Public Safety".

51 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under
52 Fayetteville State University by reducing the money allocated to "William Collins
53 Building-Comprehensive Renovation" by three hundred thousand dollars (\$300,000) to
54 a total of three hundred forty thousand six hundred dollars (\$340,600) and by the

1 addition of a project entitled "Mitchell Building-Comprehensive Renovation for use by
2 Public Safety \$300,000."

3 **SECTION 9.4.(f)** Pursuant to Section 2(b) of S.L. 2000-3, the General
4 Assembly finds that it is in the best interests of the State to respond to current
5 educational and research program requirements at North Carolina State University by
6 substituting a project entitled "Harrelson Classroom Building-Replacement Classroom
7 Facility Construction" for the project entitled "Harrelson Classroom
8 Building-Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3.

9 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North
10 Carolina State University, by deleting "Harrelson Classroom Building-Comprehensive
11 Renovation" and substituting "Harrelson Classroom Building-Replacement Classroom
12 Facility Construction."

13 **SECTION 9.4.(g)** Pursuant to Section 2(b) of S.L. 2000-3, the General
14 Assembly finds that it is in the best interests of the State to respond to current
15 educational and research program requirements at the University of North Carolina at
16 Chapel Hill by deleting a project entitled "Community Health Building-Consolidation
17 of Programs" as contained in Section 2(a) of S.L. 2000-3, and dispersing the funds from
18 that project to other health affairs related bond projects.

19 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the
20 University of North Carolina at Chapel Hill by deleting "Community Health Building
21 Consolidation of Programs" and disbursing the funds associated with that project as
22 follows: adding ten million six hundred twenty-five thousand seven hundred forty-seven
23 dollars (\$10,625,747) to the project entitled "School of Medicine-Medical Research
24 Building-Comprehensive Renovation of Classroom & Laboratory Space," for a total of
25 twenty-three million five hundred twenty thousand seven hundred forty-seven dollars
26 (\$23,520,747); adding one million forty thousand six hundred dollars (\$1,040,600) to a
27 project entitled "Burnett Womack Building Research Laboratory-Comprehensive
28 Renovation," for a total of twenty-five million eight hundred eighty-eight thousand six
29 hundred dollars (\$25,888,600), and adding six million six hundred seventy-three
30 thousand six hundred fifty-three dollars (\$6,673,653) to a project entitled "Berryhill
31 Hall Laboratory Building-Comprehensive Renovation" for a total of seventeen million
32 three hundred seventy-three thousand six hundred fifty-three dollars (\$17,373,653).

33 **SECTION 9.4.(h)** Nothing in this section is intended to supersede any other
34 requirement of law or policy for approval of the substituted capital improvement
35 projects.

36
37 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan
38 **FAYETTEVILLE STATE UNIVERSITY AND NORTH CAROLINA SCHOOL**
39 **OF THE ARTS RETAIN REAL PROPERTY PROCEEDS**

40 **SECTION 9.5.** Notwithstanding any other provision of law, Fayetteville
41 State University and the North Carolina School of the Arts may retain the proceeds from
42 the sale of their existing chancellor's residences and the appurtenant land.

43 Fayetteville State University may use the proceeds from the sale of its
44 existing chancellor's residence and the appurtenant land, and any other nonappropriated
45 funds available, to construct or otherwise acquire a new chancellor's residence. Proceeds
46 from the sale not used for that purpose shall revert.

47 The North Carolina School of the Arts may use the proceeds from the sale of
48 its existing chancellor's residence and the appurtenant land, and any other
49 nonappropriated funds available, to construct or otherwise acquire a new chancellor's
50 residence. Proceeds from the sale not used for that purpose shall revert.

51
52 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
53 **EVALUATE SCIENCE & MATH SCHOOL TUITION GRANTS**

54 **SECTION 9.6A.(a)** It is the intent of the General Assembly that the Board
55 of Governors of The University of North Carolina review, evaluate, and study

1 G.S. 116-238.1, which provides a four-year tuition grant to any North Carolina resident
2 who graduates from the North Carolina School of Science and Mathematics and enrolls
3 as a full-time student in a constituent institution of The University of North Carolina.

4 **SECTION 9.6A.(b)** The North Carolina School of Science and Mathematics
5 shall collect data on the median family income of the students attending the school.

6 **SECTION 9.6A.(c)** The President of the North Carolina School of Science
7 and Mathematics and the Board of Governors of The University of North Carolina shall
8 report to the Joint Legislative Education Oversight Committee regarding the
9 information collected in compliance with subsections (a) and (b) of this section and any
10 findings and recommendations of the Board of Governors. The Joint Legislative
11 Education Oversight Committee shall report to the 2005 General Assembly the
12 information received from the President of the North Carolina School of Science and
13 Mathematics and the Board of Governors and the findings and recommendations of the
14 Board of Governors, along with the Committee's own findings and recommendations
15 regarding the continuation of the tuition grant program.

16
17 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan

18 **UNC-CHAPEL HILL CONTINUE TO OPERATE HORACE WILLIAMS**
19 **AIRPORT**

20 **SECTION 9.7.(a)** The University of North Carolina at Chapel Hill shall
21 operate the Horace Williams Airport and continue air transportation support for the
22 Area Health Education Center (AHEC) and the public from that location until a
23 replacement facility that is accessible to the University of North Carolina at Chapel Hill
24 becomes operational.

25 **SECTION 9.7.(b)** The University of North Carolina at Chapel Hill shall
26 report to the Joint Legislative Commission on Governmental Operations by July 1,
27 2006, and biannually thereafter, on progress locating a replacement facility for the Area
28 Health Education Center.

29
30 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

31 **UNC CONSTRUCTION SPECIFICATIONS**

32 **SECTION 9.10.** G.S. 133-3 reads as rewritten:

33 **"§ 133-3. Specifications to carry competitive items; substitution of materials.**

34 **(a)** All-Except as provided in subsection (b) of this section, all architects,
35 engineers, designers, or draftsmen, when providing design services, or writing
36 specifications, directly or indirectly, for materials to be used in any city, county or State
37 work, shall specify in their plans the required performance and design characteristics of
38 such materials. However, when it is impossible or impractical to specify the required
39 performance and design characteristics for such materials, then the architect, engineer,
40 designer or draftsman may use a brand name specification so long as they cite three or
41 more examples of items of equal design or equivalent design, which would establish an
42 acceptable range for items of equal or equivalent design. The specifications shall state
43 clearly that the cited examples are used only to denote the quality standard of product
44 desired and that they do not restrict bidders to a specific brand, make, manufacturer or
45 specific name; that they are used only to set forth and convey to bidders the general
46 style, type, character and quality of product desired; and that equivalent products will be
47 acceptable. Where it is impossible to specify performance and design characteristics for
48 such materials and impossible to cite three or more items due to the fact that there are
49 not that many items of similar or equivalent design in competition, then as many items
50 as are available shall be cited. On all city, county or State works, the maximum
51 interchangeability and compatibility of cited items shall be required. The brand of
52 product used on a city, county or State work shall not limit competitive bidding on
53 future works. Specifications may list one or more preferred brands as an alternate to the
54 base bid in limited circumstances. Specifications containing a preferred brand alternate
55 under this section must identify the performance standards that support the preference.

1 Performance standards for the preference must be approved in advance by the owner in
2 an open meeting. Any alternate approved by the owner shall be approved only where (i)
3 the preferred alternate will provide cost savings, maintain or improve the functioning of
4 any process or system affected by the preferred item or items, or both, and (ii) a
5 justification identifying these criteria is made available in writing to the public.
6 Substitution of materials, items, or equipment of equal or equivalent design shall be
7 submitted to the architect or engineer for approval or disapproval; such approval or
8 disapproval shall be made by the architect or engineer prior to the opening of bids. The
9 purpose of this statute is to mandate and encourage free and open competition on public
10 contracts.

11 (b) Notwithstanding subsection (a) of this section, a constituent institution of The
12 University of North Carolina may establish construction specifications for building
13 components and thereafter, without repeating the process, may specify the components
14 by brand in construction bid documents when doing so will further efficiency in the
15 operation, maintenance, or upkeep of buildings. Prior to specifying a construction
16 component by brand name pursuant to this subsection, the constituent institution must
17 conduct a public process in which it (i) specifies in writing the performance and design
18 characteristics required of the construction component, (ii) documents its justification
19 for invoking this subsection, and (iii) after complying with (i) and (ii), provides all
20 suppliers an opportunity to propose one or more products which will meet the
21 performance and design characteristics specified. The constituent institution must make
22 its selection based on initial and life cycle costs as well as quality and suitability for the
23 designated use."

24
25 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

26 **UNC PERSONNEL MEDIATION/INADMISSIBILITY IN LITIGATION AND**
27 **CLARIFICATION REGARDING THE PRACTICE OF LAW**

28 **SECTION 9.11.(a)** Part 2 of Article 1 of Chapter 116 of the General Statutes
29 is amended by adding a new section to read:

30 **"§ 116-17.3. Inadmissibility of mediation matters.**

31 Evidence of statements, verbal or written communications, notes, or conduct
32 concerning or during mediation of a personnel matter, pursuant to policies of The
33 University of North Carolina or a constituent institution, shall not be subject to
34 discovery and shall be inadmissible in any proceeding in an action on the same claim or
35 any other actions, administrative or judicial, except in a proceeding to enforce a signed
36 settlement agreement. Such evidence is not a public record under Chapter 132 of the
37 General Statutes. No evidence otherwise discoverable shall be inadmissible merely
38 because it is presented or discussed during mediation.

39 No mediator, person training to become a mediator, nor participant in mediation
40 pursuant to policies of The University of North Carolina or a constituent institution shall
41 be compelled to testify or produce evidence in any civil proceeding concerning
42 information described in the above paragraph, for any purpose, including a proceeding
43 to enforce a settlement of the action, except to attest to the signing of any such
44 agreement."

45 **SECTION 9.11.(b)** G.S. 84-2.1 reads as rewritten:

46 **"§ 84-2.1. "Practice law" defined.**

47 The phrase "practice law" as used in this Chapter is defined to be performing any
48 legal service for any other person, firm or corporation, with or without compensation,
49 specifically including the preparation or aiding in the preparation of deeds, mortgages,
50 wills, trust instruments, inventories, accounts or reports of guardians, trustees,
51 administrators or executors, or preparing or aiding in the preparation of any petitions or
52 orders in any probate or court proceeding; abstracting or passing upon titles, the
53 preparation and filing of petitions for use in any court, including administrative
54 tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or
55 otherwise in any legal work; and to advise or give opinion upon the legal rights of any

1 person, firm or corporation: Provided, that the above reference to particular acts which
2 are specifically included within the definition of the phrase 'practice law' shall not be
3 construed to limit the foregoing general definition of the term, but shall be construed to
4 include the foregoing particular acts, as well as all other acts within the general
5 definition. The phrase 'practice law' does not encompass the writing of memoranda of
6 understanding or other mediation summaries by mediators at community mediation
7 centers authorized by ~~G.S. 7A-38.5~~G.S. 7A-38.5, nor by mediations pursuant to
8 policies of The University of North Carolina or a constituent institution as referred to in
9 G.S. 116-17.3."

10
11 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

12 **TEACHING SCHOLARSHIPS FOR WORTHY AND NEEDY STUDENTS**

13 **SECTION 9.12.(a)** Chapter 116 of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 116-209.36. Teaching Scholarship Program.**

16 (a) There is established the Teaching Scholarship Program. The purpose of the
17 Program is to address the critical shortage of teachers in the State by providing
18 four-year scholarship loans to worthy and needy North Carolinians to enable them to
19 study teaching at institutions of The University of North Carolina. The State Education
20 Assistance Authority shall administer the Program.

21 (b) Criteria for awarding the scholarship loans shall be developed by the Board of
22 Governors of The University of North Carolina and shall include all of the following:

23 (1) An applicant shall be a worthy and needy student who is a resident of
24 this State. For purposes of this section, residency shall be determined
25 by the same standard as residency for tuition purposes pursuant to
26 G.S. 116-143.1.

27 (2) An applicant shall be enrolled in a bachelors degree program at a
28 constituent institution of The University of North Carolina.

29 (3) Any additional criteria that the Board of Governors of The University
30 of North Carolina considers necessary to administer the Program
31 effectively, including all of the following:

32 a. Consideration of the appropriate numbers of minority
33 applicants, applicants from diverse socioeconomic
34 backgrounds, and applicants from the various geographical
35 regions of the State to receive scholarships pursuant to this
36 section.

37 b. Consideration of the academic qualifications of the individuals
38 applying to receive funds.

39 c. Consideration of the commitment an individual applying to
40 receive funds demonstrates to teaching in North Carolina.

41 (c) All scholarship loans shall be evidenced by notes made payable to the State
42 Education Assistance Authority that bear interest at the rate of ten percent (10%) per
43 year beginning September 1 after completion of the program, or immediately after
44 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
45 terminated upon the recipient's withdrawal from school or by the recipient's failure to
46 meet the standards set by the Board of Governors for continuation in the Teaching
47 Scholarship Program.

48 (d) The State Education Assistance Authority shall forgive the loan if, within
49 seven years after graduation, the recipient teaches at a North Carolina public school or
50 at a school operated by the United States government in North Carolina for one year for
51 every year a scholarship loan was provided. If the recipient repays the scholarship loan
52 by cash payments, all indebtedness shall be repaid within 10 years. The Authority may
53 forgive the scholarship loan if it determines that it is impossible for the recipient to
54 teach at a North Carolina public school or at a school operated by the United States
55 government in North Carolina, within 10 years of graduation or termination of

1 enrollment in the program, for a sufficient time to repay the loan because of the death or
 2 permanent disability of the recipient.

3 (e) The Board of Governors shall: (i) prepare a clear written explanation of the
 4 Teaching Scholarship Program and information regarding the availability and criteria
 5 for awarding the scholarship loans, (ii) provide that information to the appropriate
 6 counselors in each local school administrative units, and (iii) charge those counselors to
 7 inform students about the scholarship loans and to encourage students to apply for the
 8 scholarship loans.

9 (f) The Board of Governors shall adopt rules to implement this section."

10 **SECTION 9.12.(b)** There is appropriated from the Escheat Fund to the
 11 Board of Governors of The University of North Carolina the sum of two million five
 12 hundred thousand dollars (\$2,500,000) for the 2004-2005 fiscal year to provide for 384
 13 teaching scholarships in accordance with G.S. 116-209.36, as enacted in subsection (a)
 14 of this section. The Board of Governors shall use these funds for scholarships for a
 15 minimum of 41 additional students in teacher education classes for the 2004-2005
 16 academic year.

17 Funds remaining at the end of the 2004-2005 fiscal year shall not revert but
 18 shall remain available for scholarships for the 2005-2006 academic year.

19 It is the intent of the General Assembly that Escheat Funds will be used to
 20 provide 384 scholarships a year, each year for the next four years, under the Teaching
 21 Scholarship Program.

22 **SECTION 9.12.(c)** Funds in the amount of five hundred thousand dollars
 23 (\$500,000) are appropriated in Section 2.1 of this act to the Board of Governors of The
 24 University of North Carolina for planning money to increase the number of teacher
 25 education classes in order to accommodate 384 additional students in the 2005-2006
 26 academic year.

27
 28 Requested by: Senators Garrou, Dalton, Hagan

29 **NORTH CAROLINA SCHOOL OF THE ARTS EXEMPT FROM THE**
 30 **UMSTEAD ACT**

31 **SECTION 9.13.** G.S. 66-58(b)(8) reads as rewritten:

32 "(b) The provisions of subsection (a) of this section shall not apply to:

- 33
 34 (8) ~~The Greater University of North Carolina with regard to its to:~~
 35 a. The University's utilities and other services now operated by it
 36 ~~nor to the it.~~
 37 b. The sale of articles produced incident to the operation of
 38 instructional departments, articles incident to educational
 39 research, articles of merchandise incident to classroom work,
 40 meals, books, or to articles of merchandise not exceeding
 41 twenty-five cents (25¢) in value when sold to members of the
 42 educational staff or staff auxiliary to education or to duly
 43 enrolled students or occasionally to immediate members of the
 44 families of members of the educational staff or of duly enrolled
 45 ~~students nor to the students.~~
 46 c. The sale of meals or merchandise to persons attending meetings
 47 or conventions as invited ~~guests nor to the guests.~~
 48 d. The operation by the University of North Carolina of an inn or
 49 hotel and dining and other facilities usually connected with a
 50 hotel or ~~inn, nor to the inn.~~
 51 e. The hospital and Medical School of the University of North
 52 ~~Carolina, nor to the Carolina.~~
 53 f. The Coliseum of North Carolina State University at Raleigh,
 54 and the other schools and colleges for higher education
 55 maintained or supported by the ~~State, nor to the State.~~

- 1 g. The Centennial Campus of North Carolina State University at
2 Raleigh, nor to the Raleigh.
- 3 h. The Horace Williams Campus of the University of North
4 Carolina at Chapel Hill, nor to a Hill.
- 5 i. A Millennial Campus of a constituent institution of The
6 University of North Carolina, nor to the Carolina.
- 7 j. The comprehensive student health services or the
8 comprehensive student infirmaries maintained by the
9 constituent institutions of the University of North Carolina.
- 10 k. Agreements by the North Carolina School of the Arts to the use
11 of that school's facilities for the creation of commercial
12 materials and productions that may be unrelated to educational
13 purposes, so long as the proceeds from those agreements are
14 used for the benefit of the education mission of the North
15 Carolina School of the Arts.

16 "

17
18 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

19
20 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

21 **CENTRALIZE CRIMINAL RECORD CHECK FUNCTIONS**

22 **SECTION 10.1.** The Department of Health and Human Services shall
23 centralize all activities throughout the Department relating to the coordination and
24 processing of criminal record checks required by law. The centralization shall include
25 the transfer of positions, corresponding State appropriations, federal funds, and other
26 funds. The Department shall implement the centralization beginning January 1, 2005,
27 and shall report on the details of the centralization and implementation to the Senate
28 Appropriations Committee on Health and Human Services, the House of
29 Representatives Appropriations Subcommittee on Health and Human Services, and the
30 Fiscal Research Division not later than January 1, 2005.

31
32 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

33 **STUDY ISSUES RELATED TO MENTALLY ILL RESIDENTS OF**
34 **LONG-TERM CARE FACILITIES**

35 **SECTION 10.2.(a)** The Department of Health and Human Services shall
36 work with long-term care providers and advocates for the elderly and the mentally ill to
37 study issues concerning the care of mentally ill individuals residing in long-term care
38 facilities. The study shall include:

- 39 (1) Examining whether current State statutes and Departmental rules
40 adequately address the populations served by long-term care facilities.
- 41 (2) Exploring the development of separate licensure categories within the
42 adult care home and nursing home designations to address the various
43 populations being served.
- 44 (3) Examining adult care home rules to determine whether they are easy to
45 understand, attainable under current staffing patterns, give appropriate
46 guidance to facility operators according to the needs and
47 characteristics of residents served, support residents' freedom of
48 choice, and whether they support the autonomy, dignity, and
49 independence philosophy of assisted living.
- 50 (4) Determining the most effective way to identify mentally ill individuals
51 that have mental health treatment needs.
- 52 (5) Examining the criteria for admission of mentally ill individuals to
53 long-term care facilities to ensure that the health and safety of all
54 residents are safeguarded.

1 (6) Providing recommendations for improving the quality of care for
2 mentally ill individuals in adult care homes and nursing homes
3 including the potential cost associated with implementing the
4 recommendations.

5 (7) Identifying specific problems that exist due to mixing aging and
6 mentally ill populations.

7 **SECTION 10.2.(b)** The Department shall report its findings and
8 recommendations to the North Carolina Study Commission on Aging by October 1,
9 2005. The Department of Health and Human Services shall include in this report how it
10 defines "mentally ill" for purposes of this study.

11
12 Requested by: Senators Rand, Purcell, Reeves, Garrou, Dalton, Hagan

13 **TRANSFER OF FUNDS IN CAMP BUTNER WATER AND SEWER UTILITY**
14 **ENTERPRISE FUND FOR PURCHASE OF FIRE TRUCK**

15 **SECTION 10.2A.** The Department of Health and Human Services shall
16 transfer from the Camp Butner Water and Sewer Utility Enterprise Fund to the
17 Department of Crime Control and Public Safety, Butner Public Safety Division, the sum
18 of two hundred eighty thousand dollars (\$280,000) for the 2004-2005 fiscal year.
19 Notwithstanding any other provision of law or local ordinance to the contrary, these
20 funds shall be used for the purchase of a new pumper fire truck to be used for the
21 protection of persons and property within the Camp Butner reservation and areas
22 outside the reservation within reasonable limitations specifically including any sanitary
23 district or city in Durham or Granville counties.

24
25 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

26 **AUTOMATIC ENROLLMENT MEDICARE PRESCRIPTION DRUG**
27 **DISCOUNT CARD**

28 **SECTION 10.2B.** Notwithstanding any other provision of law to the
29 contrary, the Department of Health and Human Services may enroll senior citizens into
30 the federal Medicare Prescription Drug Discount Program, as follows:

- 31 (1) Current and future participants in the State's Senior Care Prescription
32 Drug Assistance Program whose income is not more than one hundred
33 thirty-five percent (135%) of the federal poverty level are eligible for
34 automatic enrollment.
35 (2) Prior to automatic enrollment, the Department shall give any person
36 eligible for automatic enrollment the opportunity to decline automatic
37 enrollment.
38 (3) The State's Senior Care Prescription Drug Assistance Program shall be
39 payor of last resort.
40

41 Requested by: Senators Reeves, Purcell, Garrou, Dalton, Hagan

42 **CONSOLIDATION OF MANAGEMENT OF IT OPERATIONS, SERVICES,**
43 **AND FUNCTIONS WITHIN DHHS**

44 **SECTION 10.2C.(a)** Based upon information gathered by the Department of
45 Health and Human Services in conducting the recently completed department-wide
46 examination and analysis of the Department's information technology infrastructure,
47 including IT expenditures and management structure, the Department shall complete
48 planning and begin implementation of those plans to consolidate management of all IT
49 operations, services, and functions that are common to and necessary in all divisions,
50 offices, and programs of the Department.

51 **SECTION 10.2C.(b)** The consolidation and implementation should place
52 emphasis on improving successful and timely implementation of IT projects and
53 ongoing maintenance within the Department while eliminating duplication of efforts
54 and equipment, controlling the use of personal service contracts, establishing continuity
55 in process and systems development, strengthening systems security, coordinating and

1 overseeing all IT efforts within the Department, and identifying other efficiencies. The
2 plan for consolidation of these IT functions shall be implemented in a manner that will
3 allow for the maintenance of a complete accounting of IT efforts within the Department
4 and the costs related to those efforts, including identification of funding needs. The plan
5 should set forth the management and operational structure of the consolidated IT
6 function, including how the structure will enhance IT operations and efficiency within
7 the Department.

8 **SECTION 10.2C.(c)** The Department shall restrict the future creation or
9 filling of any IT-related position within any departmental division, office, or program
10 when the function of the position is determined under the consolidation plan to be
11 properly placed or managed within the consolidated IT function.

12 **SECTION 10.2C.(d)** The consolidation plan, including time lines for
13 implementation, shall be submitted to the Senate Appropriations Committee on Health
14 and Human Services, the House of Representatives Appropriations Subcommittee on
15 Health and Human Services, and the Fiscal Research Division upon completion, but not
16 later than October 1, 2004. The Department shall provide a report on the progress of
17 implementation of the consolidation plan to the Senate Appropriations Committee on
18 Health and Human Services, the House of Representatives Appropriations
19 Subcommittee on Health and Human Services, and the Fiscal Research Division on or
20 before March 1, 2005.

21
22 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

23 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

24 **SECTION 10.2D.** Pursuant to rules adopted by the State Controller, an
25 employee of the Department of Health and Human Services may, in writing, authorize
26 the Department to periodically deduct from the employee's salary or wages paid for
27 employment by the State, a designated lump sum to be paid to satisfy the cost of
28 services received for child care provided by the Department.

29
30 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

31 **REGULATION OF PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS**
32 **RECEIVING, PRESCRIBING, OR DISPENSING FREE PRESCRIPTION**
33 **DRUGS**

34 **SECTION 10.2E.** Article 1 of Chapter 90 is amended by adding a new
35 section to read:

36 **"§ 90-18.2A. Physician assistants and nurse practitioners receiving, prescribing, or**
37 **dispensing prescription drugs without charge or fee.**

38 **The North Carolina Medical Board shall have sole jurisdiction to regulate and**
39 **license physician assistants and nurse practitioners receiving, prescribing, or dispensing**
40 **prescription drugs under the supervision of a licensed physician without charge or fee to**
41 **the patient. The provisions of G.S. 90-18.1(c)(1), (c)(2), 90-18.2(c), and 90-85.21(b),**
42 **shall not apply to the receiving, prescribing, or dispensing of prescription drugs without**
43 **charge or fee to the patient."**

44
45 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

46 **NO STATE FUNDS FOR REBIRTHING TECHNIQUE PERFORMED IN**
47 **ANOTHER STATE**

48 **SECTION 10.2F.** G.S. 14-401.21 reads as rewritten:

49 **"§ 14-401.21. Practicing "rebirthing technique"; penalty.**

50 (a) It is unlawful for a person to practice a technique, whether known as a
51 "rebirthing technique" or referred to by any other name, to reenact the birthing process
52 in a manner that includes restraint and creates a situation in which a patient may suffer
53 physical injury or death.

54 (b) A violation of this section is punishable as follows:

- 1 (1) For a first offense under this section, the person is guilty of a Class A1
2 misdemeanor.
- 3 (2) For a second or subsequent offense under this section, the person is
4 guilty of a Class I felony.

5 (c) No State funds shall be used to pay for the rebirthing technique made
6 unlawful by this section and performed in another state notwithstanding that the
7 technique, whether known as a rebirthing technique or referred to by any other name, is
8 lawful in that other state."
9

10 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

11 **MEDICAID**

12 **SECTION 10.4.** Section 10.19 of S.L. 2003-284 reads as rewritten:

13 **"MEDICAID**

14 **SECTION 10.19.(a)** Funds appropriated in this act for services provided in
15 accordance with Title XIX of the Social Security Act (Medicaid) are for both the
16 categorically needy and the medically needy. Funds appropriated for these services shall
17 be expended in accordance with the following schedule of services and payment bases.
18 All services and payments are subject to the language at the end of this subsection.

19 Services and payment bases:

- 20 (1) Hospital-Inpatient. – Payment for hospital inpatient services will be
21 prescribed in the State Plan as established by the Department of Health
22 and Human Services.
- 23 (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a
24 prospective reimbursement plan as established by the Department of
25 Health and Human Services.
- 26 (3) Nursing Facilities. – Payment for nursing facility services will be
27 prescribed in the State Plan as established by the Department of Health
28 and Human Services. Nursing facilities providing services to Medicaid
29 recipients who also qualify for Medicare must be enrolled in the
30 Medicare program as a condition of participation in the Medicaid
31 Program. State facilities are not subject to the requirement to enroll in
32 the Medicare program. Residents of nursing facilities who are eligible
33 for Medicare coverage of nursing facility services must be placed in a
34 Medicare certified bed. Medicaid shall cover facility services only
35 after the appropriate services have been billed to Medicare. The
36 Division of Medical Assistance shall allow nursing facility providers
37 sufficient time from the effective date of this act to certify additional
38 Medicare beds if necessary. In determining the date that the
39 requirements of this subdivision become effective, the Division of
40 Medical Assistance shall consider the regulations governing
41 certification of Medicare beds and the length of time required for this
42 process to be completed.
- 43 (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed
44 in the State Plan as established by the Department of Health and
45 Human Services.
- 46 (5) Drugs. – Drug costs as allowed by federal regulations plus a
47 professional services fee per month excluding refills for the same drug
48 or generic equivalent during the same month. Reimbursement shall be
49 available for up to six prescriptions per recipient, per month, including
50 refills. Payments for drugs are subject to the provisions of subsection
51 (h) of this section and to the provisions at the end of subsection (a) of
52 this section or in accordance with the State Plan adopted by the
53 Department of Health and Human Services consistent with federal
54 reimbursement regulations. Payment of the professional services fee
55 shall be made in accordance with the State Plan adopted by the

- 1 Department of Health and Human Services, consistent with federal
2 reimbursement regulations. The professional services fee shall be five
3 dollars and sixty cents (\$5.60) per prescription for generic drugs and
4 four dollars (\$4.00) per prescription for brand name drugs.
5 Adjustments to the professional services fee shall be established by the
6 General Assembly.
- 7 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified
8 Nurse Midwife Services, Nurse Practitioners. – Fee schedules as
9 developed by the Department of Health and Human Services.
10 Payments for dental services are subject to the provisions of subsection
11 (g) of this section.
- 12 (7) Community Alternative Program, EPSDT Screens. – Payment to be
13 made in accordance with the rate schedule developed by the
14 Department of Health and Human Services.
- 15 (8) Home Health and Related Services, Private Duty Nursing, Clinic
16 Services, Prepaid Health Plans, Durable Medical Equipment. –
17 Payment to be made according to reimbursement plans developed by
18 the Department of Health and Human Services.
- 19 (9) Medicare Buy-In. – Social Security Administration premium.
- 20 (10) Ambulance Services. – Uniform fee schedules as developed by the
21 Department of Health and Human Services. Public ambulance
22 providers will be reimbursed at cost.
- 23 (11) Hearing Aids. – ~~Actual-Wholesale~~ cost plus a dispensing ~~fee-fee to the~~
24 provider.
- 25 (12) Rural Health Clinic Services. – Provider-based, reasonable cost;
26 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 27 (13) Family Planning. – Negotiated rate for local health departments. For
28 other providers, see specific services, for instance, hospitals,
29 physicians.
- 30 (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules
31 as developed by the Department of Health and Human Services.
- 32 (15) Optical Supplies. – ~~One hundred percent (100%) of reasonable~~
33 ~~wholesale cost of materials.~~ Payment for materials is made to a
34 contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to
35 dispensing providers are negotiated fees established by the State
36 agency based on industry charges.
- 37 (16) Ambulatory Surgical Centers. – Payment as prescribed in the
38 reimbursement plan established by the Department of Health and
39 Human Services.
- 40 (17) Medicare Crossover Claims. – By not later than October 1, 2005, the
41 Department shall apply Medicaid medical policy to Medicare claims
42 for dually eligible recipients. The Department shall pay an amount up
43 to the actual coinsurance or deductible or both, in accordance with the
44 State Plan, as approved by the Department of Health and Human
45 Services.
- 46 (18) Physical Therapy and Speech Therapy. – Services limited to
47 EPSDT-eligible children. Payments are to be made only to qualified
48 providers at rates negotiated by the Department of Health and Human
49 Services. Physical therapy (including occupational therapy) and speech
50 therapy services are subject to prior approval and utilization review.
- 51 (19) Personal Care Services. – Payment in accordance with the State Plan
52 approved by the Department of Health and Human Services.
- 53 (20) Case Management Services. – Reimbursement in accordance with the
54 availability of funds to be transferred within the Department of Health
55 and Human Services.

- 1 (21) Hospice. – Services may be provided in accordance with the State Plan
2 developed by the Department of Health and Human Services.
- 3 (22) Other Mental Health Services. – Unless otherwise covered by this
4 section, coverage is limited to:
- 5 a. Services as defined by the Division of Mental Health,
6 Developmental Disabilities, and Substance Abuse Services and
7 approved by the Centers for Medicare and Medicaid Services
8 (CMS) when provided in agencies meeting the requirements of
9 the rules established by the Commission for Mental Health,
10 Developmental Disabilities, and Substance Abuse Services and
11 reimbursement is made in accordance with a State Plan
12 developed by the Department of Health and Human Services
13 not to exceed the upper limits established in federal regulations,
14 and
- 15 b. For children eligible for EPSDT ~~services~~; services provided by:
- 16 1. Licensed or certified psychologists, licensed clinical
17 social workers, certified clinical nurse specialists in
18 psychiatric mental health advanced practice, ~~and~~ nurse
19 practitioners certified as clinical nurse specialists in
20 psychiatric mental health advanced practice, licensed
21 psychological associates, licensed professional
22 counselors, licensed marriage and family therapists,
23 certified clinical addictions specialists, and certified
24 clinical supervisors, when Medicaid-eligible children are
25 referred by the ~~Carolina ACCESS~~ Community Care of
26 North Carolina primary care ~~physician~~ physician, a
27 Medicaid-enrolled psychiatrist, or the area mental health
28 program, program or local management entity, and
- 29 2. Institutional providers of residential services as defined
30 by the Division of Mental Health, Developmental
31 Disabilities, and Substance Abuse Services and approved
32 by the Centers for Medicare and Medicaid Services
33 (CMS) for children and Psychiatric Residential
34 Treatment Facility services that meet federal and State
35 requirements as defined by the Department.
- 36 c. For Medicaid-eligible adults, services provided by licensed or
37 certified psychologists, licensed clinical social workers,
38 certified clinical nurse specialists in psychiatric mental health
39 advanced practice, and nurse practitioners certified as clinical
40 nurse specialists in psychiatric mental health advanced practice,
41 licensed psychological associates, licensed professional
42 counselors, licensed marriage and family therapists, certified
43 clinical addictions specialists, and certified clinical supervisors,
44 Medicaid-eligible adults may be self-referred.
- 45 d. Payments made for services rendered in accordance with this
46 subdivision shall be to qualified providers in accordance with
47 approved policies and the State Plan. Nothing in
48 sub-subdivision b. or c. of this subdivision shall be interpreted
49 to modify the scope of practice of any service provider,
50 practitioner, or licensee, nor to modify or attenuate any
51 collaboration or supervision requirement related to the
52 professional activities of any service provider, practitioner, or
53 licensee. Nothing in sub-subdivision b. or c. of this subdivision
54 shall be interpreted to require any private health insurer or

1 health plan to make direct third-party reimbursements or
 2 payments to any service provider, practitioner, or licensee.

3 e. The Department of Health and Human Services shall not enroll
 4 licensed psychological associates, licensed professional
 5 counselors, licensed marriage and family therapists, certified
 6 clinical addiction specialists, and certified clinical supervisors
 7 until all of the following conditions have been met:

8 1. The fiscal impact of payments to these qualified
 9 providers has been projected;

10 2. Funding for any projected requirements in excess of
 11 budgeted Division of Medical Assistance funding has
 12 been identified from within State funds appropriated to
 13 the Department of Health and Human Services, Division
 14 of Mental Health, Developmental Disabilities, and
 15 Substance Abuse Services, to support area mental health
 16 programs or county programs, or identified from other
 17 sources; and

18 3. Approval has been obtained from the Office of State
 19 Budget and Management to transfer these State or other
 20 source funds from the Division of Mental Health,
 21 Developmental Disabilities, and Substance Abuse
 22 Services to the Division of Medical Assistance. Upon
 23 approval and implementation, the Department of Health
 24 and Human Services shall, on a quarterly basis, provide a
 25 status report to the Office of State Budget and
 26 Management and the Fiscal Research Division.

27 Notwithstanding G.S. 150B-21.1(a), the Department of Health and
 28 Human Services may adopt temporary rules in accordance with
 29 Chapter 150B of the General Statutes further defining the
 30 qualifications of providers and referral procedures in order to
 31 implement this subdivision. Coverage policy for services defined by
 32 the Division of Mental Health, Developmental Disabilities, and
 33 Substance Abuse Services under sub-subdivisions a. and b.2 of this
 34 subdivision shall be established by the Division of Medical Assistance.

35 (23) Medically Necessary Prosthetics or ~~Orthotics for EPSDT Eligible~~
 36 ~~Children-Orthotics.~~ – Reimbursement in accordance with the State
 37 Plan approved by the Department of Health and Human Services.
 38 Medically necessary prosthetics and orthotics are subject to prior
 39 approval and utilization review.

40 (24) Health Insurance Premiums. – Payments to be made in accordance
 41 with the State Plan adopted by the Department of Health and Human
 42 Services consistent with federal regulations.

43 (25) Medical Care/Other Remedial Care. – Services not covered elsewhere
 44 in this section include related services in schools; health professional
 45 services provided outside the clinic setting to meet maternal and infant
 46 health goals; and services to meet federal EPSDT mandates. Services
 47 addressed by this subdivision are limited to those prescribed in the
 48 State Plan as established by the Department of Health and Human
 49 Services.

50 (26) Pregnancy-Related Services. – Covered services for pregnant women
 51 shall include nutritional counseling, psychosocial counseling, and
 52 predelivery and postpartum home visits by maternity care coordinators
 53 and public health nurses.

54 Services and payment bases may be changed with the approval of the Director of the
 55 Budget.

1 Payment is limited to Medicaid-enrolled providers that purchase a performance bond
 2 in an amount not to exceed one hundred thousand dollars (\$100,000) naming as
 3 beneficiary the Department of Health and Human Services, Division of Medical
 4 Assistance, or provide to the Department a validly executed letter of credit or other
 5 financial instrument issued by a financial institution or agency honoring a demand for
 6 payment in an equivalent amount. The Department may waive or limit the requirements
 7 of this paragraph for one or more classes of Medicaid-enrolled providers based on the
 8 provider's dollar amount of monthly billings to Medicaid or the length of time the
 9 provider has been licensed in this State to provide services. In waiving or limiting
 10 requirements of this paragraph, the Department shall take into consideration the
 11 potential fiscal impact of the waiver or limitation on the State Medicaid Program. The
 12 Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary
 13 to implement this provision.

14 Reimbursement is available for up to 24 visits per recipient per year to any one or
 15 combination of the following: physicians, clinics, hospital outpatient, optometrists,
 16 chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms,
 17 and mental health services subject to independent utilization review are exempt from the
 18 visit limitations contained in this paragraph. Exceptions may be authorized by the
 19 Department of Health and Human Services where the life of the patient would be
 20 threatened without such additional care. Any person who is determined by the
 21 Department to be exempt from the 24-visit limitation may also be exempt from the
 22 six-prescription limitation.

23 **"SECTION 10.19.(b)** Allocation of Nonfederal Cost of Medicaid. – The State shall
 24 pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 25 nonfederal costs of all applicable services listed in this section.

26 **"SECTION 10.19.(c)** Copayment for Medicaid Services. – The Department of
 27 Health and Human Services may establish co-payment up to the maximum permitted by
 28 federal law and regulation.

29 **"SECTION 10.19.(d)** Medicaid and Work First Family Assistance, Income
 30 Eligibility Standards. – The maximum net family annual income eligibility standards for
 31 Medicaid and Work First Family Assistance and the Standard of Need for Work First
 32 Family Assistance shall be as follows:

<u>Categorically Needy</u>		<u>Medically Needy</u>	
<u>WFFA*</u>			
<u>Family</u>	<u>Standard</u>	<u>Families and</u>	
<u>Size</u>	<u>of Need</u>	<u>Children Income</u>	<u>AA, AB, AD*</u>
		<u>Level</u>	
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

47 *Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB);
 48 and Aid to the Disabled (AD).

49
 50 The payment level for Work First Family Assistance shall be fifty percent (50%) of the
 51 standard of need.

52 These standards may be changed with the approval of the Director of the Budget
 53 with the advice of the Advisory Budget Commission.

54 **"SECTION 10.19.(e)** The Department of Health and Human Services, Division of
 55 Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled

1 people who have incomes equal to or less than one hundred percent (100%) of the
 2 federal poverty guidelines, as revised each April 1.

3 **"SECTION 10.19.(f)** ICF and ICF/MR Work Incentive Allowances. – The
 4 Department of Health and Human Services may provide an incentive allowance to
 5 Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in
 6 work activities as part of their developmental plan and for whom retention of additional
 7 income contributes to their achievement of independence. The State funds required to
 8 match the federal funds that are required by these allowances shall be provided from
 9 savings within the Medicaid budget or from other unbudgeted funds available to the
 10 Department. The incentive allowances may be as follows:

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

17 **"SECTION 10.19.(g)** Dental Coverage Limits. – Dental services shall be provided
 18 on a restricted basis in accordance with rules adopted by the Department to implement
 19 this subsection.

20 **"SECTION 10.19.(h)** Dispensing of Generic Drugs. – Notwithstanding
 21 G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the
 22 Medical Assistance Program (Title XIX of the Social Security Act), and except as
 23 otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in
 24 the narrow therapeutic index, a prescription order for a drug designated by a trade or
 25 brand name shall be considered to be an order for the drug by its established or generic
 26 name, except when the prescriber has determined, at the time the drug is prescribed, that
 27 the brand name drug is medically necessary and has written on the prescription order the
 28 phrase "medically necessary". An initial prescription order for an atypical antipsychotic
 29 drug or a drug listed in the narrow therapeutic drug index that does not contain the
 30 phrase "medically necessary" shall be considered an order for the drug by its established
 31 or generic name, except that a pharmacy shall not substitute a generic or established
 32 name prescription drug for subsequent brand or trade name prescription orders of the
 33 same prescription drug without explicit oral or written approval of the prescriber given
 34 at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the
 35 Medical Assistance Program rather than trade or brand name drugs. As used in this
 36 subsection, "brand name" means the proprietary name the manufacturer places upon a
 37 drug product or on its container, label, or wrapping at the time of packaging; and
 38 "established name" has the same meaning as in section 502(e)(3) of the Federal Food,
 39 Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

40 **"SECTION 10.19.(i)** The Department of Health and Human Services shall not
 41 impose prior authorization requirements or other restrictions under the State Medical
 42 Assistance Program on medications prescribed for Medicaid recipients for the treatment
 43 of: (i) mental illness, including, but not limited to, medications for schizophrenia,
 44 bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

45 **"SECTION 10.19.(j)** Exceptions to Service Limitations, Eligibility Requirements,
 46 and Payments. – Service limitations, eligibility requirements, and payments bases in this
 47 section may be waived by the Department of Health and Human Services, with the
 48 approval of the Director of the Budget, to allow the Department to carry out pilot
 49 programs for prepaid health plans, contracting for services, managed care plans, or
 50 community-based services programs in accordance with plans approved by the United
 51 States Department of Health and Human Services or when the Department determines
 52 that such a waiver will result in a reduction in the total Medicaid costs for the recipient.
 53 The Department of Health and Human Services may proceed with planning and
 54 development work on the Program of All-Inclusive Care for the Elderly.

1 **"SECTION 10.19.(k)** Volume Purchase Plans and Single Source Procurement. –
2 The Department of Health and Human Services, Division of Medical Assistance, may,
3 subject to the approval of a change in the State Medicaid Plan, contract for services,
4 medical equipment, supplies, and appliances by implementation of volume purchase
5 plans, single source procurement, or other contracting processes in order to improve
6 cost containment.

7 **"SECTION 10.19.(l)** Cost-Containment Programs. – The Department of Health and
8 Human Services, Division of Medical Assistance, may undertake cost-containment
9 programs in accordance with Section 3 of S.L. 2001-395, including contracting for
10 services, preadmissions to hospitals, and prior approval for certain outpatient surgeries
11 before they may be performed in an inpatient setting.

12 **"SECTION 10.19.(m)** For all Medicaid eligibility classifications for which the
13 federal poverty level is used as an income limit for eligibility determination, the income
14 limits will be updated each April 1 immediately following publication of federal poverty
15 guidelines.

16 **"SECTION 10.19.(n)** The Department of Health and Human Services shall provide
17 Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and regulations.

18 **"SECTION 10.19.(o)** The Department of Health and Human Services shall provide
19 coverage to pregnant women and to children according to the following schedule:

- 20 (1) Pregnant women with incomes equal to or less than one hundred
21 eighty-five percent (85%) of the federal poverty guidelines as revised
22 each April 1 shall be covered for Medicaid benefits. ~~In determining~~
23 ~~income eligibility under this subdivision, the income of a minor's~~
24 ~~parents shall be counted if the minor is residing in the home.~~
- 25 (2) Infants under the age of one with family incomes equal to or less than
26 one hundred eighty-five percent (85%) of the federal poverty
27 guidelines as revised each April 1 shall be covered for Medicaid
28 benefits.
- 29 (3) Children aged one through five with family incomes equal to or less
30 than one hundred thirty-three percent (133%) of the federal poverty
31 guidelines as revised each April 1 shall be covered for Medicaid
32 benefits.
- 33 (4) Children aged six through 18 with family incomes equal to or less than
34 the federal poverty guidelines as revised each April 1 shall be covered
35 for Medicaid benefits.
- 36 (5) The Department of Health and Human Services shall provide Medicaid
37 coverage for adoptive children with special or rehabilitative needs
38 regardless of the adoptive family's income.

39 Services to pregnant women eligible under this subsection continue throughout the
40 pregnancy but include only those related to pregnancy and to those other conditions
41 determined by the Department as conditions that may complicate pregnancy. In order to
42 reduce county administrative costs and to expedite the provision of medical services to
43 pregnant women, to infants, and to children described in subdivisions (3) and (4) of this
44 subsection, no resources test shall be applied.

45 **"SECTION 10.19.(p)** Medicaid enrollment of categorically needy families with
46 children shall be continuous for one year without regard to changes in income or assets.

47 **"SECTION 10.19.(q)** The Division of Medical Assistance, Department of Health
48 and Human Services, may provide incentives to counties that successfully recover
49 fraudulently spent Medicaid funds by sharing State savings with counties responsible
50 for the recovery of the fraudulently spent funds.

51 **"SECTION 10.19.(r)** If first approved by the Office of State Budget and
52 Management, the Division of Medical Assistance, Department of Health and Human
53 Services, may use funds that are identified to support the cost of development and
54 acquisition of equipment and software through contractual means to improve and
55 enhance information systems that provide management information and claims

1 processing. The Department of Health and Human Services shall identify adequate
2 funds to support the implementation and first year's operational costs that exceed the
3 currently allocated funds for the new contract for the fiscal agent for the Medicaid
4 Management Information System.

5 **"SECTION 10.19.(s)** The Department of Health and Human Services may adopt
6 temporary or emergency rules according to the procedures established in
7 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to
8 maximize receipt of federal funds within existing State appropriations, to reduce
9 Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these
10 temporary or emergency rules with the Rules Review Commission and the Office of
11 Administrative Hearings, the Department shall consult with the Office of State Budget
12 and Management on the possible fiscal impact of the temporary or emergency rule and
13 its effect on State appropriations and local governments.

14 **"SECTION 10.19.(t)** The Department shall report to the Fiscal Research Division
15 of the Legislative Services Office and to the House of Representatives Appropriations
16 Subcommittee on Health and Human Services and the Senate Appropriations
17 Committee on Health and Human Services or the Joint Legislative Health Care
18 Oversight Committee on any change it anticipates making in the Medicaid Program that
19 impacts the type or level of service, reimbursement methods, or waivers, any of which
20 require a change in the State Plan or other approval by the Centers for Medicare and
21 Medicaid Services (CMS). The reports shall be provided at the same time they are
22 submitted to CMS for approval.

23 **"SECTION 10.19.(u)** Upon approval of a demonstration waiver by the Centers for
24 Medicare and Medicaid Services (CMS), the Department of Health and Human Services
25 may provide Medicaid coverage for family planning services to men and women of
26 child-bearing age with family incomes equal to or less than one hundred eighty-five
27 percent (185%) of the federal poverty level. Coverage shall be contingent upon federal
28 approval of the waiver and shall begin no earlier than January 1, 2001.

29 **"SECTION 10.19.(v)** The Department of Health and Human Services, Division of
30 Medical Assistance, shall use the latest audited cost reporting data available when
31 establishing Medicaid provider rates or when making changes to the reimbursement
32 methodology. For hospital services, the Division shall use the latest audited cost
33 reporting data available, supplemented by additional financial information available to
34 the Division if and to the extent that the Division concludes that the information is
35 reliable and relevant, when establishing rates or when making changes to the
36 reimbursement methodology.

37 **"SECTION 10.19.(w)** The Department of Health and Human Services, Division of
38 Medical Assistance, shall implement a new coding system for therapeutic mental health
39 services as required by the Health Insurance Portability and Accountability Act of 1996.
40 In implementing the new coding system, the Division shall ensure that the new coding
41 system does not discriminate between providers of therapeutic mental health services
42 with similar qualifications and training. In meeting the requirements of this subsection,
43 the Division shall consult with the Division of Mental Health, Developmental
44 Disabilities, and Substance Abuse Services and the professional licensing boards
45 responsible for licensing the affected professionals.

46 **"SECTION 10.19.(x)** The Department of Health and Human Services may apply
47 federal transfer of assets policies, as described in Title XIX, section 1917(c) of the
48 Social Security Act, including the attachment of liens, to real property excluded as
49 "income producing", tenancy-in-common, or as nonhomesite property made "income
50 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer
51 of assets policy shall apply only to an institutionalized individual or the individual's
52 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This
53 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset
54 policies and attachment of liens to properties excluded as tenancy-in-common or as

1 nonhomesite property made "income producing" in accordance with this subsection
2 shall become effective not earlier than November 1, 2002.

3 **"SECTION 10.19.(y)** When implementing the Supplemental Security Income (SSI)
4 method for considering equity value of income producing property, the Department
5 shall, to the maximum extent possible, employ procedures to mitigate the hardship to
6 Medicaid enrollees occurring from application of the Supplemental Security Income
7 (SSI) method.

8 **"SECTION 10.19.(z)** Unless required for compliance with federal law, the
9 Department shall not change medical policy affecting the amount, sufficiency, duration,
10 and scope of health care services and who may provide services until the Division of
11 Medical Assistance has prepared a five-year fiscal analysis documenting the increased
12 cost of the proposed change in medical policy and submitted it for Departmental review.
13 If the fiscal impact indicated by the fiscal analysis for any proposed medical policy
14 change exceeds three million dollars (\$3,000,000) in total requirements for a given
15 fiscal year, then the Department shall submit the proposed policy change with the fiscal
16 analysis to the Office of State Budget and Management and the Fiscal Research
17 Division. The Department shall not implement any proposed medical policy change
18 exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year
19 unless the source of State funding is identified and approved by the Office of State
20 Budget and Management. The Department shall provide the Office of State Budget and
21 Management and the Fiscal Research Division a quarterly report itemizing all medical
22 policy changes with total requirements of less than three million dollars (\$3,000,000).

23 **"SECTION 10.19.(aa)** The Department of Health and Human Services, Division of
24 Medical Assistance, shall convene a work group to review the current Medicaid
25 standards for vision screening for Medicaid-eligible children to determine whether the
26 standards are meeting the vision needs of these children. The Secretary shall appoint to
27 the work group pediatricians, ophthalmologists, optometrists, and other individuals with
28 expertise or interest in children's vision care. The Department shall report the findings
29 of the work group to the House of Representatives Appropriations Subcommittee on
30 Health and Human Services, the Senate Appropriations Committee on Health and
31 Human Services, and the Fiscal Research Division by March 1, 2004. The report shall
32 include recommendations on whether current Medicaid standards need to be modified to
33 meet the vision care needs of Medicaid-eligible children and, if modification is
34 necessary, the cost of providing vision services based on the modified standards.

35 **"SECTION 10.19.(bb)** The Department shall develop, amend, and adopt medical
36 coverage policy in accordance with the following:

- 37 (1) During the development of new medical coverage policy or
38 amendment to existing medical coverage policy, consult with and seek
39 the advice of the Physician Advisory Group of the North Carolina
40 Medical Society and other organizations the Secretary deems
41 appropriate. The Secretary shall also consult with and seek the advice
42 of officials of the professional societies or associations representing
43 providers ~~groups listed in subdivision (a)(6) of this section~~ who are
44 affected by the new medical coverage policy or amendments to
45 existing medical coverage policy due to their involvement with or use
46 of new technologies or therapies.
- 47 (2) At least 45 days prior to the adoption of new or amended medical
48 coverage policy, the Department shall:
- 49 a. Publish the proposed new or amended medical coverage policy
50 on the Department's web site;
 - 51 b. Notify all Medicaid providers of the proposed, new, or amended
52 policy; and
 - 53 c. Upon request, provide persons copies of the proposed medical
54 coverage policy.

- 1 (3) During the 45-day period immediately following publication of the
 2 proposed new or amended medical coverage policy, accept oral and
 3 written comments on the proposed new or amended policy.
 4 (4) If, following the comment period, the proposed new or amended
 5 medical coverage policy is modified, then the Department shall, at
 6 least 15 days prior to its adoption:
 7 a. Notify all Medicaid providers of the proposed policy;
 8 b. Upon request, provide persons notice of amendments to the
 9 proposed policy; and
 10 c. Accept additional oral or written comments during this 15-day
 11 period."
 12

13 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

14 **MEDICAID RESERVE FUND TRANSFER**

15 **SECTION 10.5.(a)** Section 10.20 of S.L. 2003-284 reads as rewritten:

16 **"SECTION 10.20.** Of the funds transferred to the Department of Health and Human
 17 Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of sixty-two million
 18 five hundred thousand dollars (\$62,500,000) for the 2003-2004 fiscal year and the sum
 19 of ~~sixty two million five hundred thousand dollars (\$62,500,000)~~ eighty-four million
 20 two hundred four thousand two hundred fifty-one dollars (\$84,204,251) for the
 21 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid
 22 programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not
 23 reduce State general revenue funding, these funds shall replace the reduction in general
 24 revenue funding effected in this act."
 25

26 **SECTION 10.5.(b)** Of the funds transferred to the Department of Health and
 27 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of five
 28 million dollars (\$5,000,000) for the 2004-2005 fiscal year shall be allocated as
 29 prescribed by G.S. 143-23.2(b) for the implementation of the Medicaid Management
 30 Information System (MMIS).
 31

31 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

32 **TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID/TECHNICAL**
 33 **CORRECTION**

34 **SECTION 10.6.** G.S. 108A-58, as amended by Section 10.26 of S.L.
 35 2003-284, reads as rewritten:

36 **"§ 108A-58. Transfer of property for purposes of qualifying for medical**
 37 **assistance; periods of ineligibility.**

38 (a) Any person, otherwise eligible, who, either while receiving medical
 39 assistance benefits or within the time period mandated by controlling federal law, sells,
 40 gives, assigns or transfers countable real or personal property or an interest in real or
 41 personal property for the purpose of retaining or establishing eligibility for medical
 42 assistance benefits, shall be ineligible to receive medical assistance benefits as set forth
 43 in section 1917(c) of the Social Security Act. Countable real and personal property
 44 includes real property, excluding a homesite, unless other applicable federal or State law
 45 requires the homesite to be counted for transfer of property purposes, intangible
 46 personal property, nonessential motor and recreational vehicles, nonincome producing
 47 business equipment, boats and motors. The provisions of this act shall not apply to the
 48 sale, gift, assignment or transfer of real or personal property if and to the extent that the
 49 person applying for medical assistance would have been eligible for such assistance
 50 notwithstanding ownership of such property or an interest therein.

51 (b) Any sale, gift, assignment or transfer of real or personal property or an
 52 interest in real or personal property, as provided in subsection (a) of this section, shall
 53 be presumed to have been made for the purpose of retaining or establishing eligibility
 54 for medical assistance benefits unless the person, or the person's legal representative,
 55 who sells, gives, assigns or transfers the property or interest, receives valuable

1 consideration at least equal to the fair market value, less encumbrances, of the property
2 or interest.

3 (c) Any person who sells, gives, assigns or transfers real or personal property or
4 an interest in real or personal property for the purpose of retaining or establishing
5 eligibility for medical assistance benefits, as provided in subsection (a) of this section,
6 shall, after the time of transfer, be ineligible to receive these benefits until an amount
7 equal to the uncompensated value of the property or interest has been expended by or on
8 behalf of the person for the person's maintenance and support, including medical
9 expenses, paid or incurred, or shall be ineligible based on the period of time required
10 under section 1917(c) of the Social Security Act.

11 (d) The sale, gift, assignment or transfer for a consideration less than fair market
12 value, less encumbrances, of any tangible personal property which was acquired with
13 the proceeds of sale, assignment or transfer of real or intangible personal property
14 described in subsection (a) of this section or in exchange for such real or intangible
15 personal property shall be presumed to have been for the purpose of evading the
16 provisions of this section if the acquisition and sale, gift, assignment or transfer of the
17 tangible personal property is by or on behalf of a person receiving medical assistance or
18 within the time period mandated by controlling federal law and the consequences of the
19 sale, gift, assignment or transfer of such tangible personal property shall be determined
20 under the provisions of subsections (c) and (f) of this section.

21 (e) The presumptions created by subsections (b) and (d) may be overcome if the
22 person receiving or applying for medical assistance, or the person's legal representative,
23 establishes by the greater weight of the evidence that the sale, gift, assignment or
24 transfer was exclusively for some purpose other than retaining or establishing eligibility
25 for medical assistance benefits.

26 (f) For the purpose of establishing uncompensated value under subsection (c),
27 the value of property or an interest therein shall be the fair market value of the property
28 or interest at the time of the sale, gift, assignment or transfer, less the amount of
29 compensation, if any, received for the property or interest. There shall be a rebuttable
30 presumption that the fair market value of real property is the most recent property tax
31 value of the property, as ascertained according to Subchapter II of Chapter 105 of the
32 General Statutes. Fair market value for purpose of this subsection shall be such value,
33 determined as above set out, less any legally enforceable encumbrances to which the
34 property is subject.

35 (g) Repealed by Session Laws 2003-284, s. 10.26, effective July 1, 2003.

36 (h) This section shall not apply to applicants for or recipients of Work First
37 Family Assistance or to persons entitled to medical assistance by virtue of their
38 eligibility for Work First Family Assistance.

39 ~~(i) This section shall apply only to transfers made before July 1, 1988."~~

40
41 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

42 **MEDICAID ASSESSMENT PROGRAM FOR ICF/MR FACILITIES**

43 **SECTION 10.8.(a)** The Secretary of Health and Human Services shall
44 implement a Medicaid assessment program for State ICF/MR facilities and ICF/MR
45 facilities licensed under Chapter 122C of the General Statutes. The assessment shall be
46 imposed in a manner consistent with federal regulations under 42 C.F.R. Part 433,
47 Subpart B. The Department shall impose the assessment effective on or before October
48 1, 2004. Funds realized from assessments imposed shall be used only to draw down
49 federal Medicaid matching funds and to implement a rate increase for private ICF/MR
50 facility rates.

51 **SECTION 10.8.(b)** Funds realized from the Medicaid assessment program
52 established pursuant to subsection (a) of this section shall not be used to supplant State
53 funds appropriated for private ICF/MR services. The Secretary shall use funds realized
54 from the Medicaid assessment program to reduce State funds appropriated for public
55 ICF/MR services.

1 **SECTION 10.8.(c)** Funds realized from the assessment on licensed ICF/MR
2 facilities shall be used to pay one hundred percent (100%) of the nonfederal share for
3 increasing rates for licensed ICF/MR facilities.

4 **SECTION 10.8.(d)** The Secretary shall adopt rules to implement this
5 section.

6
7 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

8 **COMMUNITY ALTERNATIVES PROGRAMS**

9 **SECTION 10.9.** Community Alternatives Programs for Disabled Adults
10 (CAP/DA) services shall be provided for the 2004-2005 fiscal year to any eligible
11 person who entered a nursing facility on or before June 1, 2004, within the existing
12 availability of the county allocation or within the existing availability of services.

13
14 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

15 **PILOT PROGRAM TO TEST NEW APPROACHES TO MANAGING ACCESS**
16 **TO AND UTILIZATION OF HEALTH CARE SERVICES TO MEDICAID**
17 **RECIPIENTS**

18 **SECTION 10.11.** The Department of Health and Human Services may
19 establish and implement two or more pilot programs to test new approaches to
20 management of access to and utilization of health care services to Medicaid recipients.
21 The purpose of the pilot programs is to determine if additional cost savings can be
22 achieved in addition to that provided by the Community Care of North Carolina
23 program. With respect to at least two of the pilot programs, the Department may
24 contract with a physician-owned and managed network that has demonstrated success in
25 improving the cost-effectiveness of Medicaid services in at least one state other than
26 North Carolina. The Department may develop a payment methodology that may
27 include sharing savings with contractors providing medical management services, but
28 the methodology shall not allow increased spending relative to current appropriations.
29 The Department may apply for federal waivers necessary to implement this section.
30 The Department shall report on the implementation of the pilot programs to the House
31 of Representatives Appropriations Subcommittee on Health and Human Services, the
32 Senate Appropriations Committee on Health and Human Services, and the Fiscal
33 Research Division not later than February 1, 2005.

34
35 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

36 **SPECIAL CHILDREN ADOPTION FUND**

37 **SECTION 10.18.** Section 10.47 of S.L. 2003-284 reads as rewritten:

38 **"SECTION 10.47.(a)** Of the funds appropriated to the Department of Health and
39 Human Services in this act, the sum of one hundred thousand dollars (\$100,000) shall
40 be used to support the Special Children Adoption Fund for the 2004-2005 fiscal year.
41 The Division of Social Services, in consultation with the North Carolina Association of
42 County Directors of Social Services and representatives of licensed private adoption
43 agencies, shall develop guidelines for the awarding of funds to licensed public and
44 private adoption agencies upon the adoption of children described in G.S. 108A-50 and
45 in foster care. Payments received from the Special Children Adoption Fund by
46 participating agencies shall be used exclusively to enhance the adoption services. No
47 local match shall be required as a condition for receipt of these funds. In accordance
48 with State rules for allowable costs, the Special Children Adoption Fund may be used
49 for post-adoption services for families whose income exceed two hundred percent
50 (200%) of the federal poverty level.

51 **"SECTION 10.47.(b)** Of the total funds appropriated for the Special Children
52 Adoption Fund each year, twenty percent (20%) of the total funds available shall be
53 reserved for payment to participating private adoption agencies. If the funds reserved in
54 this subsection for payments to private agencies have not been spent on or before March

1 31, 2004, the Division of Social Services may reallocate those funds, in accordance with
2 this section, to other participating adoption agencies.

3 "SECTION 10.47.(c) The Division of Social Services shall monitor the total
4 expenditures in the Special Children Adoption Fund and redistribute unspent funds to
5 ensure that the funds are used according to the guidelines established in subsection (a)
6 of this section. The Division shall implement strategies to ensure that funds that have
7 historically reverted for this program are used for the intended purpose. The Division
8 shall report to the House of Representatives Appropriations Subcommittee on Health
9 and Human Services, the Senate Appropriations Committee on Health and Human
10 Services, and the Fiscal Research Division on the expenditures and activities of the
11 program no later than December 1, 2004, and June 30, 2005."

12
13 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

14 **FUNDS FOR CHILD PROTECTIVE SERVICES STAFF**

15 **SECTION 10.19.** Of the funds appropriated in this act to the Department of
16 Health and Human Services, the sum of four million dollars (\$4,000,000) shall be used
17 to hire additional child protective services staff at the local level for the 2004-2005
18 fiscal year. The Division of Social Services shall distribute the funds based on a funding
19 formula that shall address the needs of counties that have high caseload per child
20 protective services worker ratios. These funds shall not be used to supplant any other
21 source of funding for staff. These funds shall be used to increase the number of child
22 protective services workers throughout the State and shall be used to pay for salaries
23 and benefits only. The Department of Health and Human Services shall report on the
24 use of these funds to the House of Representatives Appropriations Subcommittee on
25 Health and Human Services, the Senate Appropriations Committee on Health and
26 Human Services, and the Fiscal Research Division no later than January 1, 2005.

27
28 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

29 **TANF BENEFIT IMPLEMENTATION**

30 **SECTION 10.19A.** Section 10.49(a) of S.L. 2003-284 reads as rewritten:

31 "SECTION 10.49.(a) The General Assembly approves the plan titled "North
32 Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared
33 by the Department of Health and Human Services and presented to the General
34 Assembly on April 28, 2003, as revised in accordance with subsection (b) of this
35 section-section, except that the provision contained in the approved North Carolina
36 Temporary Assistance for Needy Families State Plan FY 2003-2005 eliminating
37 pay-after-performance as a benefit delivery method for two-parent families will only be
38 implemented if the federal two-parent work participation rate is eliminated. The North
39 Carolina Temporary Assistance for Needy Families State Plan covers the period
40 October 1, 2003, through September 30, 2005. The Department shall submit the State
41 Plan, as revised in accordance with subsection (b) of this section, to the United States
42 Department of Health and Human Services as amended by this act or any other act of
43 the 2003 General Assembly."

44
45 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

46 **IV-E CHILD CARING INSTITUTIONS**

47 **SECTION 10.19B.** The Department of Health and Human Services shall
48 work with the federal government and child caring institutions to ensure that adequate
49 funds are available to support child caring institution operations.

50
51 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

52 **ADULT CARE HOME CRIMINAL RECORD CHECK PILOT**

53 **SECTION 10.19C.(a)** The Department of Health and Human Services shall
54 establish a pilot program to review the criminal history records of applicants for
55 positions not requiring an occupational license but requiring direct resident care in adult

1 care homes and contract agencies of adult care homes. Pursuant to this program,
2 criminal history record checks for the employees of adult care homes and contract
3 agencies of adult care homes shall be conducted as provided in G.S. 131D-40, except
4 for the following:

- 5 (1) At the time it submits the request for the criminal history record check
6 to the Department of Justice, the adult care home or contract agency of
7 the adult care home shall provide a copy of the request to the
8 Department of Health and Human Services, Division of Facility
9 Services. If the adult care home or contract agency of the adult care
10 home receives the criminal history information from a private entity,
11 then within two business days of receiving the criminal history
12 information, the adult care home or contract agency shall forward the
13 information to the Department of Health and Human Services,
14 Division of Facility Services, for a determination as to whether the
15 applicant should be disqualified from employment.
- 16 (2) Notwithstanding G.S. 114-19.10, the Department of Justice shall
17 return the results of national criminal history record checks for
18 employment positions not covered by Public Law 105-277 and State
19 criminal history record checks to the Department of Health and Human
20 Services, Division of Facility Services. Within five business days of
21 receipt of the criminal history of the person, the Department of Health
22 and Human Services, Division of Facility Services, shall determine
23 whether the applicant should be disqualified from employment, unless
24 the Department is unable to determine within five business days the
25 disposition or accuracy of the criminal history information obtained by
26 the Department, in which case the Department shall make the
27 determination as soon as possible after verifying the disposition or
28 accuracy of the criminal history information. By the next business day
29 following its determination, the Department shall notify the adult care
30 home or contract agency of its determination and shall also notify the
31 applicant by a written statement as to the Department's determination
32 and the basis on which the determination was made. The applicant
33 shall be disqualified from employment if the applicant's criminal
34 history shows that:
- 35 a. The applicant was convicted of any of the offenses of Homicide
36 under Article 6 of Chapter 14 of the General Statutes or Rape
37 and Other Sex Offenses under Article 7A of Chapter 14 of the
38 General Statutes, or equivalent offenses under the laws of
39 another state.
- 40 b. The applicant was convicted of any other offenses listed in
41 G.S. 131D-40(d) within 10 years prior to the date of application
42 for employment, or equivalent offenses under the laws of
43 another state.
- 44 (3) If the criminal history of the applicant reveals a conviction of any of
45 the other offenses listed in G.S. 131D-40(d) more than 10 years prior
46 to the date of application for employment, the Department of Health
47 and Human Services shall obtain the public record document reflecting
48 the offense and shall provide the public record of the conviction to the
49 adult care home or contract agency of the adult care home, and the
50 adult care home or contract agency shall determine whether the
51 applicant should be employed after considering the factors contained
52 in G.S. 131D-40(b).
- 53 (4) If the adult care home or contract agency of the adult care home
54 disqualifies an applicant or terminates a conditional employee based
55 on the Department's determination or on its own consideration, then

1 the adult care home or contract agency may disclose public criminal
2 history information or public information that in the Department's
3 determination is relevant to the disqualification but shall not provide
4 the criminal record check to the applicant. All information that the
5 Department receives through checking the criminal history is
6 privileged information and is not a public record but is for the
7 exclusive use of the Department and those persons authorized under
8 this act and under federal law to receive the information.

9 (5) An adult care home or contract agency of an adult care home may
10 employ an applicant conditionally prior to obtaining the Department's
11 determination or making its own determination, but shall terminate
12 immediately the conditional employment of an applicant upon
13 receiving notification from the Department that the applicant is
14 disqualified or upon making its own determination that the applicant is
15 disqualified.

16 (6) The pilot program shall include notices to the applicant of the criminal
17 history record check and of the applicant's right to appeal the
18 Department's determination as a final agency decision pursuant to
19 Chapter 150B of the General Statutes.

20 **SECTION 10.19C.(b)** The Department of Health and Human Services shall
21 collect the following information during the pilot program:

- 22 (1) The number of persons whose criminal histories were reviewed by the
23 Department.
24 (2) The number of persons who were disqualified by the Department and
25 nature of the disqualifying offenses.
26 (3) The cost of the pilot program.
27 (4) The length of time between initial requests for criminal history record
28 checks and the notices sent from the Department as to its
29 determination.

30 **SECTION 10.19C.(c)** The Department of Health and Human Services shall
31 convene a workgroup that shall include representatives of the Department of Justice,
32 nursing homes, adult care homes, home care agencies, and contract agencies of nursing
33 homes and adult care homes. The Department shall conduct meetings at least monthly
34 during the pilot program to discuss the progress of the pilot programs and any problems
35 encountered in conducting the program.

36 **SECTION 10.19C.(d)** The Department shall report the information required
37 under this section and report the progress of the pilot program and the activities of the
38 workgroup, including any statutory changes needed to fully implement G.S. 131D-40
39 and G.S. 131E-265, to the House of Representatives Appropriations Subcommittee on
40 Health and Human Services, the Senate Appropriations Committee on Health and
41 Human Services, and to the North Carolina Study Commission on Aging on or before
42 January 15, 2005.

43 **SECTION 10.19C.(e)** Section 10.8E of S.L. 2003-284 reads as rewritten:

44 **"SECTION 10.8E.** Notwithstanding any other provision of law to the contrary, the
45 requirements of G.S. 131E-265 for nursing homes to conduct national criminal history
46 record checks for employment positions other than those involving direct patient care
47 shall become effective no earlier than ~~January 1, 2005.~~ July 1, 2005. Notwithstanding
48 any other provision of law to the contrary, the requirements of G.S. 131D-2 for adult
49 care homes to conduct national criminal ~~records-record~~ checks for all staff positions
50 except for staff positions involving direct care of residents shall become effective no
51 earlier than ~~January 1, 2005.~~ July 1, 2005."

52 **SECTION 10.19C.(f)** Of the funds appropriated in this act to the
53 Department of Health and Human Services, the sum of four hundred fifty thousand
54 dollars (\$450,000) for the 2004-2005 fiscal year shall be used for implementation of the
55 pilot program established in this section.

1 **SECTION 10.19C.(g)** Of the funds appropriated in this act to the
2 Department of Health and Human Services, the sum of two hundred fifty thousand
3 dollars (\$250,000) for the 2004-2005 fiscal year shall be transferred to the Department
4 of Justice to be used to expedite the processing of criminal record checks by upgrading
5 the billing system.
6

7 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

8 **STATE/COUNTY SPECIAL ASSISTANCE**

9 **SECTION 10.21A.** Effective October 1, 2004, the maximum monthly rate
10 for residents in adult care home facilities shall be one thousand eighty-one dollars
11 (\$1,081) per month per resident unless adjusted by the Department in accordance with
12 Section 10.52(f) of S.L. 2003-284.
13

14 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

15 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**
16 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
17 **SUBSTANCE ABUSE SERVICES**

18 **SECTION 10.22A.** The Department of Health and Human Services,
19 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services,
20 shall in cooperation with area mental health authorities and county programs, identify
21 and eliminate administrative and fiscal barriers created by existing State and local
22 policies and procedures in the delivery of community-based mental health,
23 developmental disabilities, and substance abuse services provided through the area
24 programs and county programs, including services provided through the Comprehensive
25 Treatment Services Program for Children and services delivered to multiply diagnosed
26 adults. The Department shall implement changes in policies and procedures in order to
27 facilitate all of the following:

- 28 (1) The provision of services to adults and children as defined in the
29 Mental Health System Reform State Plan as priority or targeted
30 populations.
- 31 (2) A revised system of allocating State and federal funds to area mental
32 health authorities and county programs that reflects projected needs,
33 including the impact of system reform efforts rather than historical
34 allocation practices and spending patterns.
- 35 (3) The provision of services to children not deemed eligible for the
36 Comprehensive Treatment Services Program for Children, but who
37 would otherwise be in need of medically necessary treatment services
38 to prevent out-of-home placement.
- 39 (4) The provision of services in the community to adults remaining in and
40 being placed in State institutions addressed in Olmstead v. L.C.

41 Area mental health, developmental disabilities, and substance abuse services
42 authorities and county programs shall use all funds appropriated for and necessary to
43 provide mental health, developmental disabilities, and substance abuse services to meet
44 the need for these services. If excess funds are available after expending appropriated
45 funds to fully meet service needs, these excess funds shall not revert but shall be
46 transferred to the Trust Fund for Mental Health, Developmental Disabilities, and
47 Substance Abuse Services and Bridge Funding Needs, except that funds appropriated
48 for the Comprehensive Treatment Services Program for Children that are unexpended
49 and unencumbered shall not revert but shall be carried forward and used only for
50 services for children and adolescents.

51 The Department, in consultation with the area mental health authorities and
52 county programs, shall report to the House of Representatives Appropriations
53 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
54 Health and Human Services, and the Joint Legislative Oversight Committee on Mental
55 Health, Developmental Disabilities, and Substance Abuse Services on the progress in

1 implementing these changes. The report shall be submitted on October 1, 2004, and
2 February 1, 2005.

3
4 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

5 **AREA PROGRAM AND COUNTY PROGRAM TRANSITION FLEXIBILITY**

6 **SECTION 10.26.(a)** G.S. 122C-115(a) reads as rewritten:

7 "(a) A county shall provide mental health, developmental disabilities, and
8 substance abuse services through an area authority or through a county program
9 established pursuant to G.S. 122C-115.1. To the extent this section conflicts with
10 G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control. If a county that is a
11 member of an area authority determines to provide its services through a county
12 program or through a multicounty program, it may, with the agreement of the other
13 counties comprising the area authority and the approval of the Secretary, simultaneously
14 participate in a county program or a multicounty program while remaining a
15 participating member of the area authority until the end of the subsequent fiscal year."

16 **SECTION 10.26.(b)** This section is effective upon ratification and expires
17 on July 1, 2005.

18
19 Requested by: Senators Reeves, Purcell, Garrou, Dalton, Hagan

20 **DOROTHEA DIX MASTER PLAN**

21 **SECTION 10.26A.(a)** S.L. 2003-314 is amended by adding a new section to
22 read:

23 "**SECTION 3.4.(a1)** The State Property Office, in conjunction with the City of
24 Raleigh, shall develop a Master Plan for the Dorothea Dix Campus. The State and the
25 City of Raleigh shall share equally the cost of the planning process. The State Property
26 Office shall hire a consultant to assist with the development of the Master Plan. The
27 State and the City of Raleigh shall examine, among other things, operations for land
28 conservation, mixed-use development, and anticipated State office space needs. The
29 Master Plan shall reflect both State needs and local considerations. The State shall
30 submit the Master Plan to the Dorothea Dix Property Study Commission no later than
31 April 1, 2005. The Commission shall review the Master Plan and shall make
32 recommendations to the 2005 General Assembly.

33 In order to enhance communication and feedback regarding the planning process, an
34 oversight committee shall be established to oversee the development of the Master Plan.
35 The oversight committee shall consist of five members: three shall be appointed by the
36 Cochairs of the Dorothea Dix Property Study Commission; one shall be appointed by the
37 Raleigh City Council; and one shall be appointed by the Wake County Board of
38 Commissioners. The oversight committee shall terminate upon the submission of the
39 Master Plan to the Dorothea Dix Property Study Commission."

40 **SECTION 10.26A.(b)** Section 3.4(a) of S.L. 2003-314 reads as rewritten:

41 "**SECTION 3.4.(a)** Dorothea Dix Hospital Property Study Commission. – If any of
42 the State-owned real property encompassing the Dorothea Dix Hospital campus is no
43 longer needed by Dorothea Dix Hospital and is not transferred to another State agency
44 or agencies before the sale of any or all of the property to a nongovernmental entity,
45 options for this sale shall be considered by the Dorothea Dix Hospital Property Study
46 Commission. The Commission shall make recommendations on the options for sale of
47 the property to the Joint Legislative Commission on Governmental
48 ~~Operations~~Operations, the 2005 General Assembly, and the Appropriations Committees
49 of the Senate and the House of Representatives before any sale of any or all parts of the
50 property. The Commission shall terminate upon submission of its final report."

51 **SECTION 10.26A.(c)** Of the funds appropriated in this act to the
52 Department of Health and Human Services, the sum of one hundred thousand dollars
53 (\$100,000) for the 2004-2005 fiscal year shall be transferred to the Department of
54 Administration, State Property Office. These funds shall be used to work with the City

1 of Raleigh to develop a Master Plan for the Dorothea Dix Property in the event some or
2 all of the property is sold to a nongovernmental entity.
3

4 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

5 **DHHS CENTRAL OFFICE CONTRACTS REDUCTION**

6 **SECTION 10.26B.** Reductions in funds appropriated to the Department of
7 Health and Human Services for the 2004-2005 fiscal year for technical assistance,
8 training, and service contracts through the Central Office of the Division of Mental
9 Health, Developmental Disabilities, and Substance Abuse Services shall not apply to the
10 contract with the North Carolina High School Athletics Association.
11

12 Requested by: Senator Hartsell

13 **PUBLIC HEALTH IMPROVEMENTS**

14 **SECTION 10.28A.(a)** Of the funds appropriated in this act to the
15 Department of Health and Human Services, Division of Public Health, the sum of fifty
16 thousand dollars (\$50,000) for the 2004-2005 fiscal year shall be allocated to accredited
17 local public health agencies for one or more of the following purposes:

- 18 (1) To facilitate the creation of Quality Officers in each agency to oversee
19 the quality improvement structure and process, develop and ensure
20 compliance with the agency's quality improvement plan against
21 internal and external requirements, develop critical incident reporting
22 and management plans, assess organizational and workforce
23 development gaps, and oversee the accreditation process.
- 24 (2) To facilitate the development of private or public partnerships through
25 contracts, interlocal agreements, memoranda of understanding, and
26 community grants.
- 27 (3) To provide incentives to agencies to collaborate and partner with other
28 counties in the development of regional public health incubators to
29 improve service delivery, organization, and preparedness.
- 30 (4) To enable accredited agencies to assist other counties in their efforts to
31 achieve public health accreditation.
- 32 (5) To promote partnerships between local agencies and universities
33 through development of academic health departments.
- 34 (6) To provide incentives to develop local and regional business plans to
35 create hybrid health departments, including public health authorities
36 and public health districts, and identify new sources of public health
37 revenue.
- 38 (7) To create community health plans to improve community health and
39 reduce health disparities, including the creation of a Community
40 Wellness Index.
- 41 (8) To strengthen the role of local boards of health through training,
42 technical assistance, and consultation.
- 43 (9) To create public internships at the local level.
- 44 (10) To support new insights and innovative solutions to health problems
45 that will result in improved quality, greater accountability, improved
46 health outcomes, and the elimination of health disparities.

47 **SECTION 10.28A.(b)** The Department shall report on the accreditation
48 process to the House of Representatives Appropriations Subcommittee on Health and
49 Human Services, the Senate Appropriations Committee on Health and Human Services,
50 and the Fiscal Research Division no later than January 1, 2005.
51

52 Requested by: Senator Hartsell

53 **PILOT PROCESS FOR LOCAL HEALTH DEPARTMENTS**

1 **SECTION 10.28B.(a)** The Department of Health and Human Services shall
2 expand the pilot accreditation process for local health departments to include additional
3 counties.

4 **SECTION 10.28B.(b)** The Pilot Accreditation Advisory Board (hereafter
5 "Advisory Board") is established within the North Carolina Institute for Public Health.
6 The Advisory Board shall be composed of 15 members appointed by the Secretary of
7 Health and Human Services as follows:

- 8 (1) Four shall be county commissioners recommended by the North
9 Carolina Association of County Commissioners, and four shall be
10 members of a local board of health as recommended by the North
11 Carolina Association of Local Boards of Health.
- 12 (2) Two local health directors.
- 13 (3) One staff member from the Department of Health and Human
14 Services, Division of Public Health.
- 15 (4) Three members at large.
- 16 (5) One recommended by the Secretary of Environment and Natural
17 Resources, from the Division of Environmental Health.

18 **SECTION 10.28B.(c)** Members of the Advisory Board who are not officers
19 or employees of the State shall receive reimbursement for travel and subsistence
20 expenses at the rates specified in G.S. 138-5. Members of the Advisory Board who are
21 officers or employees of the State shall receive reimbursement for travel and subsistence
22 at the rate set out in G.S. 138-6.

23 **SECTION 10.28B.(d)** The Advisory Board shall evaluate the Department's
24 pilot accreditation process for local health departments, including the following:

- 25 (1) The standards by which the pilot local health departments are judged.
- 26 (2) The self-assessment process used by the pilot counties.
- 27 (3) The process for local site reviews and appeals.
- 28 (4) The makeup of the proposed State accrediting entity and its
29 relationship to the Department.
- 30 (5) The cost of meeting the accreditation standards in the pilot counties.

31 **SECTION 10.28B.(e)** Of the funds appropriated in this act to the
32 Department of Health and Human Services the sum of fifty thousand dollars (\$50,000)
33 for the 2004-2005 fiscal year shall be allocated for administrative costs and for activities
34 of the Pilot Accreditation Advisory Board for the accreditation of additional local health
35 departments. The Department shall contract with the Institute for Public Health, which
36 shall be responsible for implementation of the pilot accreditation process.

37 **SECTION 10.28B.(f)** Not later than April 1, 2005, the Pilot Accreditation
38 Advisory Board shall report its findings to the Director of the Institute for Public
39 Health, the Secretary of the Department of Health and Human Services, and the
40 cochairs of the House and Senate Appropriations Committees for Health and Human
41 Services.

42 **SECTION 10.28B.(g)** The North Carolina Public Health Task Force 2004
43 shall continue its work on the Public Health Improvement Plan and in its final report to
44 the General Assembly shall include comparisons of the recommendations of the Task
45 Force with the Model State Public Health Act, Public Health Statute Modernization
46 National Excellence Collaborative, September 2003.

47
48 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

49 **EARLY INTERVENTION REPORTING REQUIREMENT**

50 **SECTION 10.29.** The Department of Health and Human Services, Division
51 of Public Health, shall track and report on the number of children referred to the Early
52 Intervention program through Department of Social Services abuse and neglect agents.
53 The report shall include the number and types of services provided to these children and
54 the fiscal impact to the program. The Department shall submit a report to the House of
55 Representatives Appropriations Subcommittee on Health and Human Services, the

1 Senate Appropriations Committee on Health and Human Services, and the Fiscal
2 Research Division by January 30, 2005.

3
4 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

5 **AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

6 **SECTION 10.30.** Section 10.31 of S.L. 2003-284 reads as rewritten:

7 **"SECTION 10.31.(a)** For the 2003-2004 fiscal year and for the 2004-2005 fiscal
8 year, HIV-positive individuals with incomes at or below one hundred twenty-five
9 percent (125%) of the federal poverty level are eligible for participation in ADAP.
10 Eligibility for participation in ADAP during the 2003-2005 fiscal biennium shall not be
11 extended to individuals with incomes above one hundred twenty-five percent (125%) of
12 the federal poverty level.

13 **"SECTION 10.31.(b)** The Department of Health and Human Services shall make
14 an interim report on ADAP program utilization by ~~January 1, 2004~~, January 1, 2005, and
15 a final report on ADAP program utilization by ~~May 1, 2004~~, May 1, 2005, to the Senate
16 Appropriations Committee on Health and Human Services, the House of
17 Representatives Appropriations Subcommittee on Health and Human Services, and the
18 Fiscal Research Division on ADAP. The reports shall include the following:

19 (1) ADAP program utilization:

- 20 a. Monthly data on total cumulative AIDS/HIV cases reported in
21 North Carolina.
- 22 b. Monthly data on the number of individuals who have applied to
23 participate in ADAP that have been determined to be ineligible.
- 24 c. Monthly data on the income level of participants in ADAP and
25 of individuals who have applied to participate in ADAP who
26 have been determined to be ineligible.
- 27 d. Monthly data on fiscal year-to-date expenditures of ADAP. The
28 interim report shall contain monthly data on the calendar
29 year-to-date expenditures of ADAP.
- 30 e. An update on the status of the information management system.
- 31 f. Monthly data on ADAP usage patterns and demographics of
32 participants in ADAP.
- 33 g. Fiscal year-to-date budget information."

34
35 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

36 **MAXIMIZE ADAP PROGRAM FUNDING**

37 **SECTION 10.31.** The Department of Health and Human Services shall
38 budget all 340B rebates received from pharmaceutical purchases for the AIDS Drug
39 Assistance Program (ADAP) for use in the ADAP program. The Department shall
40 consider changing the ADAP program to a six-month eligibility process in its effort to
41 control costs. If, after consideration, it is determined that a savings will occur, the
42 Department shall implement the change. The Department shall report on its findings to
43 the House of Representatives Appropriations Subcommittee on Health and Human
44 Services, the Senate Appropriations Committee on Health and Human Services, and the
45 Fiscal Research Division in its January report.

46
47 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

48 **FUNDS FOR SCHOOL NURSES**

49 **SECTION 10.33.** Of the funds appropriated in this act to the Department of
50 Health and Human Services, the sum of four million dollars (\$4,000,000) shall be used
51 for a school nurse funding initiative. The Department of Health and Human Services,
52 Division of Public Health, in conjunction with the Department of Public Instruction,
53 shall provide funds to communities to hire school nurses. The program will fund 80
54 permanent local nurses.

1 There shall be no supplanting of local, State, or federal funds with these
2 funds. Communities shall maintain their current level of effort and funding for school
3 nurses. These funds shall not be used for funding nurses for State agencies. All funding
4 shall be used for direct services.

5 The Department of Health and Human Services shall report on the use of
6 funds allocated under this section by December 1, 2004, to the House of
7 Representatives Appropriations Subcommittee on Health and Human Services, the
8 Senate Appropriations Committee on Health and Human Services, and the Fiscal
9 Research Division.

10
11 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

12 **HOSPITAL EMERGENCY DEPARTMENT DATA REPORTING**

13 **SECTION 10.34.(a)** Effective January 1, 2005, G.S. 130A-476(f) is
14 repealed.

15 **SECTION 10.34.(b)** Effective January 1, 2005, Article 22 of Chapter 130A
16 of the General Statutes is amended by adding the following new section to read:

17 "**§ 130A-480. Emergency department data reporting.**

18 (a) For the purpose of ensuring the protection of the public health, the State
19 Health Director shall develop a syndromic surveillance program for hospital emergency
20 departments in order to detect and investigate public health threats that may result from
21 (i) a terrorist incident using nuclear, biological, or chemical agents or (ii) an epidemic or
22 infectious, communicable, or other disease. The State Health Director shall specify the
23 data to be reported by hospitals pursuant to this program, subject to the following:

24 (1) Each hospital shall submit electronically available emergency
25 department data as specified by rule by the Commission. The
26 Commission, in consultation with hospitals, shall establish by rule a
27 schedule for the implementation of full electronic reporting capability
28 of all data elements by all hospitals. The schedule shall take into
29 consideration the number of data elements already reported by the
30 hospital, the hospital's capacity to electronically maintain the
31 remaining elements, available funding, and other relevant factors.

32 (2) None of the following data for patients or their relatives, employers, or
33 household members may be collected by the State Health Director:
34 names; postal or street address information, other than town or city,
35 county, state, and the first five digits of the zip code; geocode
36 information; telephone numbers; fax numbers; electronic mail
37 addresses; social security numbers; health plan beneficiary numbers;
38 account numbers; certificate or license numbers; vehicle identifiers
39 and serial numbers, including license plate numbers; device identifiers
40 and serial numbers; web universal resource locators (URLs); Internet
41 protocol (IP) address numbers; biometric identifiers, including finger
42 and voice prints; and full face photographic images and any
43 comparable images.

44 (b) The following are not public records under Chapter 132 of the General
45 Statutes and are privileged and confidential:

46 (1) Data reported to the State Health Director pursuant to this section.

47 (2) Data collected or maintained by any entity with whom the State Health
48 Director contracts for the reporting, collection, or analysis of data
49 pursuant to this section.

50 The State Health Director shall maintain the confidentiality of the data reported
51 pursuant to this section and shall ensure that adequate measures are taken to provide
52 system security for all data and information. The State Health Director may share data
53 with local health departments for public health purposes, and the local health
54 departments are bound by the confidentiality provisions of this section. The State Health
55 Director shall not allow information that it receives pursuant to this section to be used

1 for commercial purposes and shall not release data except as authorized by other
 2 provisions of law.

3 (c) A person is immune from liability for actions arising from the required
 4 submission of data under this Article.

5 (d) For purposes of this section, "hospital" means a hospital, as defined in
 6 G.S. 131E-214.1(3), that operates an emergency room on a 24-hour basis. The term
 7 does not include a psychiatric hospital subject to Article 2 of Chapter 122C of the
 8 General Statutes.

9 (e) Administrative emergency department data shall be reported by hospitals
 10 under Article 11A of Chapter 131E of the General Statutes."

11 **SECTION 10.34.(c)** This section is effective when this act becomes law.

12
 13 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan
 14 **AUTHORIZE CHILD CARE COMMISSION TO ADOPT RULES FOR CHILD**
 15 **CARE FACILITIES FOR MEDICALLY FRAGILE CHILDREN**

16 **SECTION 10.35.** G.S. 110-88 is amended by adding a new subdivision to
 17 read:

18 "The Commission shall have the following powers and duties:

19 ...
 20 (13) To adopt rules for child care facilities that provide care for medically
 21 fragile children.

22"

23
 24 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan
 25 **CRIMINAL HISTORY RECORD CHECKS FOR LOCAL CHILD CARE**
 26 **CENTERS**

27 **SECTION 10.36.** It is the intent of the General Assembly that the Division
 28 of Child Development be able to conduct criminal history record checks for local child
 29 care centers in an expedient manner during the 2004-2005 fiscal year. The Division of
 30 Child Development shall use lapsed salary funds to support up to three additional
 31 temporary positions during fiscal year 2005 to eliminate the backlog and keep current
 32 the criminal history record checks process. The Office of State Budget and Management
 33 and the Department of Health and Human Services shall expedite the approval process
 34 for these temporary positions.

35
 36 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan
 37 **INCREASE NORTH CAROLINA PARTNERSHIP FOR CHILDREN BOARD**
 38 **MEMBERSHIP**

39 **SECTION 10.37.** G.S. 143B-168.12(a)(1) reads as rewritten:

40 "(1) The North Carolina Partnership shall have a Board of Directors
 41 consisting of the following ~~25~~26 members:

- 42 a. The Secretary of Health and Human Services, ex officio, or the
 43 Secretary's designee;
- 44 b. Repealed by Session Laws 1997, c. 443, s. 11A.105.
- 45 c. The Superintendent of Public Instruction, ex officio, or the
 46 Superintendent's designee;
- 47 d. The President of the Community Colleges System, ex officio, or
 48 the President's designee;
- 49 e. Three members of the public, including one child care provider,
 50 one other who is a parent, and one other who is a board chair of
 51 a local partnership serving on the North Carolina Partnership
 52 local partnership advisory committee, appointed by the General
 53 Assembly upon recommendation of the President Pro Tempore
 54 of the Senate;

- 1 f. Three members of the public, including one who is a parent,
 2 one other who is a representative of the faith community, and
 3 one other who is a board chair of a local partnership serving on
 4 the North Carolina Partnership local partnership advisory
 5 committee, appointed by the General Assembly upon
 6 recommendation of the Speaker of the House of
 7 Representatives;
- 8 g. Twelve members, appointed by the Governor. Three of these 12
 9 members shall be members of the party other than the
 10 Governor's party, appointed by the Governor. Seven of these 12
 11 members shall be appointed as follows: one who is a child care
 12 provider, one other who is a pediatrician, one other who is a
 13 health care provider, one other who is a parent, one other who is
 14 a member of the business community, one other who is a
 15 member representing a philanthropic agency, and one other who
 16 is an early childhood educator;
- 17 h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective
 18 October 30, 1998.
- 19 h1. The Chair of the North Carolina Partnership Board shall be
 20 appointed by the Governor;
- 21 i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective
 22 October 30, 1998.
- 23 j. One member of the public appointed by the General Assembly
 24 upon recommendation of the Majority Leader of the Senate;
- 25 k. One member of the public appointed by the General Assembly
 26 upon recommendation of the Majority Leader of the House of
 27 Representatives;
- 28 l. One member of the public appointed by the General Assembly
 29 upon recommendation of the Minority Leader of the Senate;
 30 ~~and~~
- 31 m. One member of the public appointed by the General Assembly
 32 upon recommendation of the Minority Leader of the House of
 33 ~~Representatives. Representatives; and~~
- 34 n. The Director of the More at Four Pre-Kindergarten Program, or
 35 the Director's designee.

36 All members appointed to succeed the initial members and
 37 members appointed thereafter shall be appointed for three-year terms.
 38 Members may succeed themselves.

39 All appointed board members shall avoid conflicts of interests and
 40 the appearance of impropriety. Should instances arise when a conflict
 41 may be perceived, any individual who may benefit directly or
 42 indirectly from the North Carolina Partnership's disbursement of funds
 43 shall abstain from participating in any decision or deliberations by the
 44 North Carolina Partnership regarding the disbursement of funds.

45 All ex officio members are voting members. Each ex officio
 46 member may be represented by a designee. These designees shall be
 47 voting members. No members of the General Assembly shall serve as
 48 members.

49 The North Carolina Partnership may establish a nominating
 50 committee and, in making their recommendations of members to be
 51 appointed by the General Assembly or by the Governor, the President
 52 Pro Tempore of the Senate, the Speaker of the House of
 53 Representatives, the Majority Leader of the Senate, the Majority
 54 Leader of the House of Representatives, the Minority Leader of the
 55 Senate, the Minority Leader of the House of Representatives, and the

1 Governor shall consult with and consider the recommendations of this
2 nominating committee.

3 The North Carolina Partnership may establish a policy on
4 members' attendance, which policy shall include provisions for
5 reporting absences of at least three meetings immediately to the
6 appropriate appointing authority.

7 Members who miss more than three consecutive meetings without
8 excuse or members who vacate their membership shall be replaced by
9 the appropriate appointing authority, and the replacing member shall
10 serve either until the General Assembly and the Governor can appoint
11 a successor or until the replaced member's term expires, whichever is
12 earlier.

13 The North Carolina Partnership shall establish a policy on
14 membership of the local boards. No member of the General Assembly
15 shall serve as a member of a local board. Within these requirements for
16 local board membership, the North Carolina Partnership shall allow
17 local partnerships that are regional to have flexibility in the
18 composition of their boards so that all counties in the region have
19 adequate representation.

20 All appointed local board members shall avoid conflicts of interests
21 and the appearance of impropriety. Should instances arise when a
22 conflict may be perceived, any individual who may benefit directly or
23 indirectly from the partnership's disbursement of funds shall abstain
24 from participating in any decision or deliberations by the partnership
25 regarding the disbursement of funds."
26

27 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

28 **STUDY SMART START FUNDING**

29 **SECTION 10.37A.** The North Carolina Partnership for Children, Inc., shall
30 study its funding and, in conducting the study, shall consider the following:

- 31 (1) The current funding system of the North Carolina Partnership for
32 Children, Inc.
- 33 (2) Any strategies for achieving full funding and full service for North
34 Carolina's young children and families.
- 35 (3) Funding equity among all counties and local partnerships.
- 36 (4) Any other information the Partnership deems relevant.

37 The North Carolina Partnership for Children, Inc., shall report its findings and
38 recommendations to the 2005 General Assembly on or before March 1, 2005.
39

40 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

41 **MORE AT FOUR PROGRAM**

42 **SECTION 10.38.** Section 10.40 of S.L. 2003-284 reads as rewritten:

43 **"SECTION 10.40.(a)** Of the funds appropriated to the Department of Health and
44 Human Services, the sum of forty-three million one hundred twenty-one thousand eight
45 hundred dollars (\$43,121,800) in the 2003-2004 fiscal year and the sum of ~~forty-one~~
46 ~~million nine hundred twenty-one thousand eight hundred dollars (\$41,921,800)~~ forty-six
47 million four hundred fifty thousand four hundred two dollars (\$46,450,402) in the
48 2004-2005 fiscal year shall be used to implement "More At Four", a voluntary
49 prekindergarten program for at-risk four-year-olds.

50 **"SECTION 10.40.(b)** The Department of Health and Human Services and the
51 Department of Public Instruction shall establish the "More At Four" Pre-K Task Force
52 to oversee development and implementation of the pilot program. The membership shall
53 include:

- 54 (1) Parents of at-risk children.
- 55 (2) Representatives with expertise in early childhood development.

- 1 (3) Classroom teachers who are certified in early childhood education.
- 2 (4) Representatives of the private not-for-profit and for-profit child care
- 3 providers in North Carolina.
- 4 (5) Employees of the Department of Health and Human Services who are
- 5 knowledgeable in the areas of early childhood development, current
- 6 State and federally funded efforts in child development, and providing
- 7 child care.
- 8 (6) Representatives of local Smart Start partnerships.
- 9 (7) Representatives of local school administrative units.
- 10 (8) Representatives of Head Start prekindergarten programs in North
- 11 Carolina.
- 12 (9) Employees of the Department of Public Instruction.

13 **"SECTION 10.40.(c)** The Department of Health and Human Services and the
14 Department of Public Instruction, with guidance from the Task Force, shall continue the
15 implementation of the "More At Four" prekindergarten program for at-risk
16 four-year-olds who are at risk of failure in kindergarten. The program is available
17 statewide to all counties that choose to participate, including underserved areas. The
18 goal of the program is to provide quality prekindergarten services to a greater number of
19 at-risk children in order to enhance kindergarten readiness for these children. The
20 program shall be consistent with standards and assessments established jointly by the
21 Department of Health and Human Services, the Department of Public Instruction, and
22 the Task Force and may consider the "More At Four" Pre-K Task Force
23 recommendations. The program shall include:

- 24 (1) A process and system for identifying children at risk of academic
- 25 failure.
- 26 (2) A process and system for identifying children who are not being
- 27 served first priority in formal early education programs, such as child
- 28 care, public or private preschools, Head Start, Early Head Start, early
- 29 intervention programs, or other such programs, who demonstrate
- 30 educational needs, and who are eligible to enter kindergarten the next
- 31 school year, as well as children who are underserved.
- 32 (3) A curriculum or several curricula that are recommended by the Task
- 33 Force. The Task Force will identify and approve appropriate
- 34 research-based curricula. These curricula shall: (i) focus primarily on
- 35 oral language and emergent literacy; (ii) engage children through key
- 36 experiences and provide background knowledge requisite for formal
- 37 learning and successful reading in the early elementary years; (iii)
- 38 involve active learning; (iv) promote measurable kindergarten
- 39 language-readiness skills that focus on emergent literacy and
- 40 mathematical skills; and (v) develop skills that will prepare children
- 41 emotionally and socially for kindergarten.
- 42 (4) An emphasis on ongoing family involvement with the prekindergarten
- 43 program.
- 44 (5) Evaluation of child progress through pre- and post-assessment of
- 45 children in the statewide evaluation, as well as ongoing assessment of
- 46 the children by teachers.
- 47 (6) Guidelines for a system to reimburse local school boards and systems,
- 48 private child care providers, and other entities willing to establish and
- 49 provide prekindergarten programs to serve at-risk children.
- 50 (7) A system built upon existing local school boards and systems, private
- 51 child care providers, and other entities that demonstrate the ability to
- 52 establish or expand prekindergarten capacity.
- 53 (8) A quality-control system. Participating providers shall comply with
- 54 standards and guidelines as established by the Department of Health
- 55 and Human Services, the Department of Public Instruction, and the

1 Task Force. The Department may use the child care rating system to
2 assist in determining program participation.

3 (9) Standards for minimum teacher qualifications. A portion of the
4 classroom sites initially funded shall have at least one teacher who is
5 certified or provisionally certified in birth to kindergarten education.

6 (10) A local contribution. Programs must demonstrate that they are
7 accessing resources other than "More At Four".

8 (11) A system of accountability.

9 (12) Collaboration with State agencies and other organizations. The
10 Department of Health and Human Services, the Department of Public
11 Instruction, and the Task Force shall collaborate with State agencies
12 and other organizations such as the North Carolina Partnership for
13 Children, Inc., in the design and implementation of the program.

14 (13) Consideration of the reallocation of existing funds. In order to
15 maximize current funding and resources, the Department of Health and
16 Human Services, the Department of Public Instruction, and the Task
17 Force shall consider the reallocation of existing funds from State and
18 local programs that provide prekindergarten related care and services.

19 (14) Recommendations for long-term organizational placement and
20 administration of the program.

21 **"SECTION 10.40.(d)** During the 2003-2004 fiscal year, the Department of Health
22 and Human Services shall plan for expansion of the "More At Four" program within
23 existing resources to include four and five star rated centers and schools serving
24 four-year-olds and develop guidelines for these programs. The Department shall analyze
25 guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start
26 subsidy funds and devise a complementary plan for administration of funds for all
27 four-year-old classrooms. The four and five star centers that choose to become a "More
28 at Four" program shall, at a minimum, receive curricula and access to training and
29 workshops for "More at Four" programs and be considered along with other "More at
30 Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual
31 receives funding from more than one source for the same purpose or activity during the
32 same funding period. For purposes of this subsection, sources shall include T.E.A.C.H.,
33 W.A.G.E.\$., and T.E.A.C.H. Health Insurance programs for individual recipients.

34 ~~The Department may use nonobligated "More At Four" funds for the 2003-2004~~
35 ~~fiscal year to reduce the waiting list for subsidy, with priority given to four year olds~~
36 ~~attending three star or better centers. If there are funds remaining after the waiting list~~
37 ~~for four year olds has been satisfied, then the waiting list for other children may be~~
38 ~~addressed with the remaining funds.~~

39 The "More At Four" program shall review the number of slots filled by counties on a
40 monthly basis and shift the unfilled slots to counties with waiting lists. The shifting of
41 slots shall occur through January 30, 2005, at which time any remaining funds for slots
42 unfilled shall be transferred to the Division of Child Development to meet the needs of
43 the waiting list for subsidized child care.

44 **"SECTION 10.40.(e)** The Department of Health and Human Services, the
45 Department of Public Instruction, and the Task Force shall submit a progress report by
46 ~~January 1, 2004, and May 1, 2004,~~ January 1, 2005, and May 30, 2005, to the Joint
47 Legislative Commission on Governmental Operations, the Joint Legislative Education
48 Oversight Committee, the Senate Appropriations Committee on Health and Human
49 Services, the House of Representatives Appropriations Subcommittee on Health and
50 Human Services, and the Fiscal Research Division. This final report shall include the
51 following:

52 (1) The number of children participating in the program.

53 (2) The number of children participating in the program who have never
54 been served in other early education programs, such as child care,

1 public or private preschool, Head Start, Early Head Start, or early
2 intervention programs.

3 (3) The expected expenditures for the programs and the source of the local
4 match for each grantee.

5 (4) The location of program sites and the corresponding number of
6 children participating in the program at each site.

7 (5) Activities involving Child Find in counties.

8 (6) A comprehensive cost analysis of the program, including the cost per
9 child served by the program.

10 (7) The plan for expansion of "More At Four" through existing resources
11 as outlined in this section.

12 "SECTION 10.40.(f) Beginning in the 2004-2005 fiscal year, the "More At Four"
13 program shall establish income eligibility requirements for the program of seventy-five
14 percent (75%) of the State median income in an effort to make the program consistent
15 with the child care subsidy requirements.

16 "SECTION 10.40.(g) The "More At Four" program funding shall not supplant any
17 funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year.

18 "SECTION 10.40.(h) Of the funds allocated to the "More At Four" program, the
19 "More At Four" program shall spend one hundred fifty thousand dollars (\$150,000) to
20 fund CASTLE (Center for the Acquisition of Spoken Language Through Listening
21 Enrichment), which is operated by the CCCDP (Carolina Children's Communicative
22 Disorders Program) of the University of North Carolina Health Care System. The
23 purpose of CASTLE is to enable deaf children with cochlear implants to maximize their
24 potential to develop spoken language.

25 CASTLE shall use these funds to: (i) train teachers and therapists across the State to
26 work with deaf preschool-age children with cochlear implants; and (ii) provide oral
27 preschool classes to these children.

28 "SECTION 10.40.(i) Of the funds allocated to the "More At Four" program, the
29 "More At Four" program shall spend up to one hundred fifty thousand dollars
30 (\$150,000) to contract with Prevent Blindness of North Carolina, Inc., to provide vision
31 screenings for all classrooms containing children in the "More At Four" program."
32

33 Requested by: Senators Hagan, Garrou, Dalton

34 **AGAPE OF NORTH CAROLINA, INC., ON THE LIST OF AGENCIES**
35 **ELIGIBLE TO RECEIVE FUNDING FROM STATE FUNDS PROGRAM**

36 **SECTION 10.39.** The Division of Social Services, within the Department of
37 Health and Human Services, shall include Agape of North Carolina, Inc., on its list of
38 member agencies eligible to receive funding from the State Funds Program. Agape of
39 North Carolina, Inc., shall be reimbursed for allowable expenditures from the State
40 Fund For Child Caring Institutions for the uncompensated cost of care. Funding for
41 Agape of North Carolina, Inc., shall be based on the current funding methodology
42 applied to other eligible providers that have historically been reimbursed for
43 expenditures with funds from the State Funds Program.
44

45 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**
46

47 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

48 **SALE OF UMSTEAD FARM DAIRY HERD AND USE OF PROCEEDS**

49 **SECTION 11.1.(a)** The Department of Agriculture and Consumer Services
50 may sell the dairy herd, including embryos and semen inventories, at the Umstead Farm
51 Unit in Butner and may place the proceeds of the sale in a nonreverting special revenue
52 fund within the Department. This fund shall be used only for any one or more of the
53 following purposes:

54 (1) To relocate the milking parlor equipment and nutrition barn from the
55 Umstead Farm Unit to the Piedmont Research Station in Salisbury.

- 1 (2) To purchase additional dairy animals to fully utilize dairy facilities
2 located at the Piedmont Research Station in Salisbury.
3 (3) To purchase or construct grain and feed storage facilities and to
4 purchase equipment and supplies necessary for dairy research at the
5 dairy units operated by the Department.
6 (4) To demolish or remove unneeded or obsolete dairy buildings at the
7 Umstead Farm Unit or for the closure of any animal waste
8 management system located at the Umstead Farm Unit.

9 **SECTION 11.1.(b)** The proceeds in the special revenue fund under
10 subsection (a) of this section are appropriated to the Department of Agriculture and
11 Consumer Services for the 2004-2005 fiscal year to be used for the purposes under
12 subsection (a) of this section.

13 **SECTION 11.1.(c)** Beginning with the 2005-2007 biennium, the special
14 revenue fund established under subsection (a) of this section shall be included in the
15 Governor's recommended budget.

16
17 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

18 **STUDY OPERATIONS, FUNDING, AND EFFICIENCIES FOR DACS**
19 **RESEARCH STATIONS**

20 **SECTION 11.2.(a)** The Department of Agriculture and Consumer Services
21 and the Agricultural Research Service, North Carolina State University, in consultation
22 with the Fiscal Research Division, shall study the 18 research stations within the
23 Department of Agriculture and Consumer Services, including the differences as to how
24 the Department of Agriculture and Consumer Services and the Agricultural Research
25 Service fund and operate the facilities sponsored by each, the differences as to how the
26 Department of Agriculture and Consumer Services and the Agricultural Research
27 Service allocate federal grant funds for administration of the research stations, and the
28 efforts of the Department of Agriculture and Consumer Services and the Agricultural
29 Research Service to collaborate on providing necessary funding and management of the
30 research stations.

31 **SECTION 11.2.(b)** No later than December 15, 2004, the Department of
32 Agriculture and Consumer Services and the Agricultural Research Service, North
33 Carolina State University, in consultation with the Fiscal Research Division, shall
34 prepare a final joint report of the findings and recommendations of the study and submit
35 this report to the House of Representatives and Senate Appropriations Subcommittees
36 on Natural and Economic Resources and the Fiscal Research Division.

37
38 Requested by: Senators Albertson, Garrou, Dalton, Hagan

39 **PROVIDE CRITICAL SUPPORT FOR NORTH CAROLINA DAIRY**
40 **FARMERS**

41 **SECTION 11.3.(a)** Chapter 106 of the General Statutes is amended by
42 adding a new Article to read:

43 "Article 68A.

44 "North Carolina Dairy Stabilization and Growth Act.

45 **"§ 106-812. Findings.**

46 The General Assembly finds that North Carolina has suffered a significant loss of its
47 traditional industrial and agricultural economic base. Tobacco is in decline and the
48 State's dairy industry is at serious risk of total collapse unless milk prices reach levels
49 sufficient to allow dairy farmers to meet production costs. At the same time, North
50 Carolina is experiencing rapid population growth and urbanization. This growth and
51 urbanization has fueled a rapid loss of prime agricultural land and green space, resulting
52 in a decline in the quality of life for which the State is known.

53 The General Assembly finds that the dairy industry in North Carolina makes a
54 substantial economic, environmental, and quality of life contribution to the well-being
55 of the citizens of the State. The dairy industry, including both producers and processors,

1 currently contributes over six hundred million dollars (\$600,000,000) and 3,000 jobs to
2 the State's economy. Properly managed dairy farms help maintain green space, keep
3 prime agricultural land under production, maintain water quality, enhance food security,
4 and provide a local supply of fresh milk at a reasonable cost to the consumer and to
5 in-State processing plants. An adequate local milk supply has become increasingly
6 important as transportation costs escalate, making the importation of milk from
7 out-of-state increasingly expensive. The General Assembly finds, however, that despite
8 its importance to the State's economic and environmental well-being, North Carolina's
9 dairy industry is under severe economic pressure, and milk production is declining at an
10 alarming rate. According to USDA statistics, since 1985 the State has lost sixty-seven
11 percent (67%) of its dairy farms and thirty-five percent (35%) of its processing
12 facilities. North Carolina dairy farms no longer produce sufficient milk for North
13 Carolina's processing facilities to operate. Milk must be imported 10 out of 12 months
14 each year to keep these processing facilities functioning. Further, farm prices for milk
15 exhibit great volatility, creating financial risk and discouraging investment. The General
16 Assembly finds that it is essential to a viable North Carolina dairy industry to have
17 locally produced milk available to in-State processors to process. The General
18 Assembly further finds that it is essential to the well-being of the citizens of the State to
19 have a local supply of fresh milk available at reasonable cost and not subject to the
20 vagaries of transportation costs and production conditions in other regions of the
21 country.

22 The General Assembly finds that one of the primary reasons for the decline in milk
23 production in the State is the gap between the price paid to farmers for milk under the
24 federal milk programs and the actual cost of production. Inability to meet production
25 costs combined with increasing land prices have led many milk producers to sell their
26 farms for development and retire or turn to other employment. The General Assembly
27 finds that the most effective means to ensure the continuation of a viable dairy industry
28 in this State is to establish a price floor for milk to enable dairy farmers to meet their
29 production costs. It is the intention of the General Assembly to establish a price support
30 program that will stabilize and reverse the decline in the local milk supply and in the
31 dairy industry in the State and encourage new producers to enter the dairy industry.
32 Sustaining and growing North Carolina's dairy industry will advance the State's goals of
33 preserving and enhancing its economic base and improving the quality of life in the
34 State through maintaining green space and water quality and assuring an adequate local
35 supply of fresh milk.

36 **"§ 106-813. North Carolina Dairy Stabilization and Growth Fund.**

37 (a) The North Carolina Dairy Stabilization and Growth Fund is created as a
38 nonreverting account in the Department of Agriculture and Consumer Services. The
39 Fund shall consist of any money appropriated to the Fund by the General Assembly and
40 money made available to it from grants, donations, and other sources. The Board of
41 Agriculture shall actively seek donations, grants, and other sources of money for the
42 Fund.

43 (b) The Board shall use the monies in the Fund as follows:

- 44 (1) Up to two percent (2%) of the money appropriated annually by the
45 General Assembly may be used by the Department for the costs of
46 administering the Dairy Stabilization and Growth Program. In the
47 event that the General Assembly does not make an appropriation to the
48 Fund in a given year, up to two percent (2%) of the balance remaining
49 in the Fund may be used by the Department for the costs of
50 administering the Program.
- 51 (2) The monies remaining after administrative expenses are deducted shall
52 be used to provide assistance to North Carolina dairy farmers in
53 accordance with the provisions of G.S. 106-814.
- 54 (3) At the end of any fiscal year in which the total payments to North
55 Carolina dairy farmers under G.S. 106-814 are less than fifty percent

(50%) of the amount appropriated by the General Assembly for the year, five percent (5%) of the unspent appropriation for the year may be set aside for use in that year and subsequent years for programs to support the development of the dairy industry.

"§ 106-814. Dairy Stabilization and Growth Program.

(a) Beginning July 1, 2004, and annually thereafter, the North Carolina Board of Agriculture shall set a milk support baseline price. The baseline price per hundredweight of milk shall be the average USDA Federal Milk Market Order Class I price mover for the previous 10 years less fifty cents (50¢).

(b) The Board shall adopt rules implementing the provisions of this Article. The rules shall include criteria for eligibility for distributions from the Fund, procedures for applications for distributions from the Fund, the method by which the amount of a payment to a producer shall be calculated, and the manner of payment to producers.

(c) Each month a determination shall be made whether the monthly announced USDA Federal Milk Market Order Class I price mover has dropped below the baseline price set for the year. If the monthly Class I price mover is lower than the baseline price, then each producer who meets the requirements of subsection (f) of this section shall become eligible for a distribution from the Fund in an amount equal to the difference between the baseline price and the monthly announced Class I price mover multiplied by the hundredweight of milk sold by the producer for the month.

(d) Under exceptional circumstances, and in the discretion of the Board, the amount of any monthly distribution as calculated by the formula set forth in subsection (c) of this section may be increased by an amount not to exceed one dollar (\$1.00) per hundredweight of milk sold in that month.

(e) Distributions shall be made to eligible producers at least quarterly, unless in the Board's judgment, the payment amounts are trivial. All payments under the Program are subject to the availability of funds.

(f) To be eligible to receive assistance from the Dairy Stabilization and Growth Fund, a dairy farmer shall demonstrate to the satisfaction of the Board that he or she is in compliance with the following rules and regulations:

(1) For Grade A milk producers, the federal Grade A milk regulations.

(2) For non-Grade A producers, Article 26 of Chapter 106 and the rules implementing that Article.

Farmers who fail to demonstrate compliance with the applicable rules and regulations shall become ineligible for assistance from the Fund until compliance is attained."

SECTION 11.3.(b) The Agriculture and Forestry Awareness Study Commission shall study the condition of the dairy industry in the State. In doing so, the Commission shall examine:

(1) The short- and long-term problems associated with maintaining a viable dairy industry in the State.

(2) Ways to sustain the existing dairy industry in the State.

(3) Opportunities for expanding the dairy industry, including attracting both new dairy producers and new processors to the State.

(4) The contribution of dairy farms to the maintenance of prime agricultural land and the quality of life in the State.

(5) An analysis of the effectiveness of the Dairy Stabilization and Growth Program in achieving the goals of maintaining a local supply of fresh milk for processing and consumption, facilitating the entry of young farmers into the dairy industry, and preserving green space along the urban fringe.

(6) Other factors impacting the dairy industry in North Carolina.

The Agriculture and Forestry Awareness Study Commission may issue a report of its findings and recommendations to the 2005 General Assembly and shall issue a report to the 2006 Regular Session of the 2005 General Assembly.

1 **SECTION 11.3.(c)** Subsection (a) of this section expires June 30, 2014.
 2 Subsection (b) of this section expires after the Agriculture and Forestry Awareness
 3 Study Commission, created by subsection (b) of this section, submits its report to the
 4 2006 Regular Session of the 2005 General Assembly.

5
 6 **PART XI-A. DEPARTMENT OF LABOR**

7
 8 Requested by: Senators Weinstein, Garrou, Dalton, Hagan
 9 **DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM**

10 **SECTION 11A.1.** The Department of Labor may use up to four hundred
 11 ninety-nine thousand six hundred twelve dollars (\$499,612) of indirect cost receipts
 12 deposited in the Individual Development Account (IDA) Fund for the 2004-2005 fiscal
 13 year to partly restore funding for the Apprenticeship Program.

14
 15 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL**
 16 **RESOURCES**

17
 18 Requested by: Senators Weinstein, Nesbitt, Queen, Garrou, Dalton, Hagan
 19 **GRASSROOTS SCIENCE PROGRAM**

20 **SECTION 12.1.(a)** Section 11.1 of S.L. 2003-284 is repealed.

21 **SECTION 12.1.(b)** Funds appropriated to the Department of Environment
 22 and Natural Resources for the Grassroots Science Program for the 2004-2005 fiscal year
 23 shall be allocated as follows:

24		
25	Aurora Fossil Museum	\$56,256
26	Cape Fear Museum	\$176,681
27	Carolina Raptor Center, Inc.	\$92,417
28	Catawba Science Center	\$129,404
29	Colburn Gem and Mineral Museum, Inc.	\$65,764
30	Discovery Place	\$587,140
31	Fascinate-U Children's Museum	\$79,655
32	Granville County Museum Commission,	
33	Inc. – Harris Gallery	\$55,503
34	Greensboro Children's Museum	\$125,826
35	The Health Adventure Museum of Pack	
36	Place Education, Arts and	
37	Science Center, Inc.	\$216,501
38	Highlands Nature Center	\$72,004
39	Imagination Station	\$83,017
40	Iredell County Children's Museum	\$50,000
41	KidSenses, Inc.	\$56,187
42	Museum of Coastal Carolina	\$68,058
43	Natural Science Center of Greensboro	\$174,760
44	North Carolina Museum of Life	
45	and Science	\$366,335
46	Rocky Mount Children's Museum	\$71,330
47	Schiele Museum of Natural History	\$272,552
48	Sci Works Science Center and	
49	Environmental Park of Forsyth County	\$191,247
50	Western North Carolina Nature Center	\$114,129
51	Wilmington Children's Museum, Inc.	\$62,962
52		
53	Total	\$3,167,727

1 **SECTION 12.1.(c)** It is the intent of the General Assembly that all museums
2 receiving allocations under this section shall receive recurring allocations in subsequent
3 fiscal years based on the allocation formula for the Grassroots Science Program.

4
5 Requested by: Senators Weinstein, Garrou, Dalton, Hagan
6 **WILDLIFE RESOURCES COMMISSION NOT SUBJECT TO SERVICE**
7 **CHARGE FOR SALE OF SURPLUS PROPERTY/RECYCLABLE**
8 **MATERIAL**

9 **SECTION 12.5.** G.S. 143-64.05 is amended by adding a new subsection to
10 read:

11 "(d) Subsection (a) of this section does not apply to the Wildlife Resources
12 Commission."

13
14 Requested by: Senators Queen, Jenkins, Holloman, Weinstein, Garrou, Dalton,
15 Hagan

16 **AUTHORIZE THE USE OF AVAILABLE FUNDS FOR PURCHASE OF**
17 **BERTIE COUNTY FORESTRY HEADQUARTERS**
18 **BUILDING/CONSTRUCTION OF MCDOWELL COUNTY FORESTRY**
19 **HEADQUARTERS BUILDING**

20 **SECTION 12.7.(a)** The Division of Forest Resources of the Department of
21 Environment and Natural Resources may use any funds available to the Department of
22 Environment and Natural Resources for the 2004-2005 fiscal year to purchase an
23 existing building to be used as the Bertie County Forestry Headquarters.

24 **SECTION 12.7.(b)** In the event that property located in McDowell County
25 is donated to the State by transfer of title in fee simple and the Department of
26 Environment and Natural Resources approves the land as a suitable location for a
27 forestry headquarters building, the Division of Forest Resources of the Department of
28 Environment and Natural Resources may use any available funds for the 2004-2005
29 fiscal year to construct a building on that donated property to be used as the McDowell
30 County Forestry Headquarters.

31
32 Requested by: Senators Thomas, Weinstein, Garrou, Dalton, Hagan

33 **PARTNERSHIP FOR THE SOUNDS FUNDS**

34 **SECTION 12.7A.** All of the funds remaining in the Partnership for the
35 Sounds for the Pamlico County education initiative shall be transferred to Pamlico
36 County.

37
38 Requested by: Senators Thomas, Weinstein, Garrou, Dalton, Hagan

39 **UNDER DOCK OYSTER CULTURE PROGRAM**

40 **SECTION 12.7B.** Article 16 of Chapter 113 of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 113-210. Under Dock Oyster Culture.**

43 (a) Under Dock Oyster Culture Permit. – An Under Dock Oyster Culture Permit
44 authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation
45 containers to a dock or pier owned by the permit holder.

46 (b) Application. – The owner of a dock or pier who wishes to obtain an Under
47 Dock Oyster Culture Permit shall apply to the Director of the Division of Marine
48 Fisheries.

49 (c) Issuance. – The Director of the Division of Marine Fisheries shall issue an
50 Under Dock Oyster Culture Permit only if the Director determines all of the following:

51 (1) If the oysters are to be cultivated for human consumption, that the
52 dock or pier is not located in an area that the State Health Director has
53 recommended be closed to shellfish harvest due to pollution or that has
54 been closed to harvest by statute, rule, or proclamation due to
55 suspected pollution.

- 1 (2) That the owner of the dock or pier has satisfied the training
2 requirements established by the Marine Fisheries Commission
3 pursuant to subsection (j) of this section.
- 4 (3) That the attachment of the oyster cultivation containers to the dock or
5 pier will be compatible with all lawful uses by the public of other
6 marine and estuarine resources. Other lawful public uses include, but
7 are not limited to, navigation, fishing, and recreation.
- 8 (d) Duration. – An Under Dock Oyster Culture Permit is valid for a one-year
9 period from the date of issuance.
- 10 (e) Renewal. – The Director of the Division of Marine Fisheries shall renew an
11 Under Dock Oyster Culture Permit only if the Director determines the requirements of
12 subsection (c) of this section continue to be satisfied and the holder of the permit is
13 attempting to utilize the permit to cultivate oysters on a continuing basis.
- 14 (f) Reporting Requirements. – The holder of an Under Dock Oyster Culture
15 Permit shall comply with the biological data sampling and survey programs of the
16 Marine Fisheries Commission and the Division of Marine Fisheries.
- 17 (g) Posting of Signs. – The holder of an Under Dock Oyster Culture Permit shall
18 post signs that indicate the presence of the oyster cultivation containers and that the
19 oyster cultivation containers and their contents are private property. If the dock or pier
20 is located in an area that the State Health Director has recommended be closed to
21 shellfish harvest due to pollution or that has been closed to harvest by statute, rule, or
22 proclamation due to suspected pollution, the signs shall also indicate that the waters are
23 polluted and that the oysters are not being cultivated for human consumption.
- 24 (h) Sale of Oysters Prohibited. – It is unlawful for the holder of an Under Dock
25 Oyster Culture Permit to sell oysters cultivated pursuant to the permit.
- 26 (i) Assignment and Transfer Prohibited. – An Under Dock Oyster Culture Permit
27 is not assignable or transferable.
- 28 (j) Oyster Cultivation Training Requirements. – The Marine Fisheries
29 Commission, in consultation with the Sea Grant College Program at The University of
30 North Carolina, shall develop and adopt rules for the training of individuals who
31 cultivate oysters pursuant to this section.
- 32 (k) Revocation of Permit. – If the Director of the Division of Marine Fisheries
33 determines that the holder of an Under Dock Oyster Culture Permit has failed to comply
34 with any provision of this section, the Director shall revoke the Permit. The owner of
35 the dock or pier shall remove the oyster cultivation containers that were authorized by
36 the revoked permit within 15 days of revocation."

37
38 Requested by: Senators Albertson, Garrou, Dalton, Hagan

39 **ANIMAL WASTE MANAGEMENT SYSTEMS TECHNICAL SPECIALISTS**
40 **NOT REQUIRED TO BE PROFESSIONAL ENGINEERS**

41 **SECTION 12.7C.(a)** G.S. 139-4(d)(11) reads as rewritten:

42 "(11) To develop and implement a program for the approval of water quality
43 and animal waste management systems technical specialists. The
44 Commission shall not require a person to be a licensed professional
45 engineer under Chapter 89C of the General Statutes in order to qualify
46 as an animal waste management systems technical specialist."

47 **SECTION 12.7C.(b)** G.S. 89C-25 reads as rewritten:

48 "**§ 89C-25. Limitations on application of Chapter.**

49 This Chapter shall not be construed to prevent or affect:

50
51 (11) The development of plans for the closure of lagoons that are
52 components of animal waste management systems in accordance with
53 the requirements of the practice standards of the Natural Resources
54 Conservation Service of the United States Department of Agriculture,
55 so long as the design or installation of a spillway is not needed. As

1 used in this subdivision, 'lagoon' has the same meaning as in
2 G.S. 106-802 and 'animal waste management system' has the same
3 meaning as in G.S. 143-215.10B.

4 (12) The development of plans for the application of animal waste to crop
5 and pasturelands as required under G.S. 143-215.10C.

6 (13) Any practice related to animal waste management systems subject to
7 Part 1A of Article 21 of Chapter 143 of the General Statutes when the
8 practice does not involve the structure of an animal waste management
9 system and the practice is conducted by an animal waste management
10 systems technical specialist approved by the Soil and Water
11 Conservation Commission under G.S. 139-4."

12
13 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

14 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS AND**
15 **FOR FEDERAL WATER QUALITY ACT FUNDS**

16 **SECTION 12.8.(a)** Notwithstanding the provisions of Chapter 159G of the
17 General Statutes, the Department of Environment and Natural Resources may transfer
18 from the General Water Supply Revolving Loan Account up to six million nine hundred
19 thousand dollars (\$6,900,000) to the Department of Environment and Natural Resources
20 to be used to match the federal grant moneys authorized by section 1452 of the federal
21 Safe Drinking Water Act amendments of 1996 for the 2004-2005 fiscal year and to
22 match the federal grant moneys authorized by Title VI of the federal Water Quality Act
23 of 1987 for the 2004-2005 fiscal year. The General Water Supply Revolving Loan
24 Account is an account under the Clean Water Revolving Loan and Grant Fund and is
25 established under G.S. 159G-4. The Clean Water Revolving Loan and Grant Fund is
26 established by G.S. 159G-5.

27 **SECTION 12.8.(b)** Notwithstanding the provisions of G.S. 143B-437.01,
28 the Department of Commerce shall transfer from the Industrial Development Fund to
29 the Department of Environment and Natural Resources the sum of seven hundred
30 seventy-six thousand six hundred eighty dollars (\$776,680) to be used to match the
31 federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act
32 amendments of 1996 for the 2004-2005 fiscal year and to match the federal grant
33 moneys authorized by Title VI of the federal Water Quality Act of 1987 for the
34 2004-2005 fiscal year. The Industrial Development Fund is established by
35 G.S. 143B-437.01.

36
37 Requested by: Senators Nesbitt, Weinstein, Garrou, Dalton, Hagan

38 **EXPAND EXPRESS REVIEW PILOT PROGRAM**

39 **SECTION 12.9.(a)** The Department of Environment and Natural Resources
40 shall continue the Express Review Pilot Program established by Section 11.4A of S.L.
41 2003-284 that was implemented in the Wilmington and Raleigh regional offices and
42 shall expand the Express Review Pilot Program to the Asheville regional office within
43 the Department.

44 **SECTION 12.9.(b)** The Department of Environment and Natural Resources
45 shall continue and support the eight positions that were authorized under Section 11.4A
46 of S.L. 2003-284 to administer the expanded Express Review Pilot Program under this
47 section. This expanded Program and these positions and support shall be funded from
48 the Express Review Fund, created by Section 11.4A of S.L. 2003-284.

49 **SECTION 12.9.(c)** The Department of Environment and Natural Resources
50 may establish and support four additional positions to administer the expanded Express
51 Review Pilot Program under this section. These positions and support may be funded
52 for the 2004-2005 fiscal year from funds appropriated in this act to the Department of
53 Environment and Natural Resources for this purpose. It is the intent of the General
54 Assembly that these positions and support be funded in future fiscal years from the
55 Express Review Fund.

1 **SECTION 12.9.(d)** No later than March 1, 2005, the Department of
2 Environment and Natural Resources shall report to the Fiscal Research Division and the
3 Environmental Review Commission its findings on the success of the continued Express
4 Pilot Review Program and whether it recommends that the Program be continued or
5 expanded and any other findings or recommendations, including any legislative
6 proposals that it deems pertinent.

7
8 Requested by: Senators Rand, Weinstein, Garrou, Dalton, Hagan
9 **EXPAND ONE-STOP PERMIT ASSISTANCE PILOT PROJECT**

10 **SECTION 12.12.(a)** The Department of Environment and Natural
11 Resources shall continue the one-stop environmental permit application assistance and
12 tracking system pilot project established under Section 13.7 of S.L. 2000-67 for those
13 environmental permits that were subject to this pilot project, and the Department of
14 Environment and Natural Resources shall expand this pilot project to the
15 Winston-Salem and Fayetteville regional offices within the Department.

16 **SECTION 12.12.(b)** Any positions that were used by the Department of
17 Environment and Natural Resources to staff the one-stop environmental permit
18 application assistance and tracking system pilot project established under Section 13.7
19 of S.L. 2000-67 shall be used for the 2004-2005 fiscal year to staff the expanded
20 one-stop environmental permit application assistance and tracking system pilot project.
21 The Department of Environment and Natural Resources shall use available funds for the
22 2004-2005 fiscal year to continue and support these positions, and the Department of
23 Environment and Natural Resources shall use funds appropriated in this act to the
24 Department only for the purposes of implementing the expanded one-stop
25 environmental permit application assistance and tracking system pilot project and
26 establishing and supporting two additional positions to staff this expanded pilot project
27 for the 2004-2005 fiscal year.

28 29 **PART XIII. DEPARTMENT OF COMMERCE**

30
31 Requested by: Senators Weinstein, Garrou, Dalton, Hagan
32 **COUNCIL OF GOVERNMENT FUNDS**

33 **SECTION 13.1.** Section 12.2(c) of S.L. 2003-284 reads as rewritten:

34 "**SECTION 12.2.(c)** Funds appropriated by this section for the 2004-2005 fiscal
35 year shall be paid by electronic transfer in two equal installments, the first no later than
36 September 1, ~~2003,2004~~, and the second subsequent to acceptable submission of the
37 annual report due to the Joint Legislative Commission on Governmental Operations and
38 the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of
39 this section."

40
41 Requested by: Senators Weinstein, Garrou, Dalton, Hagan
42 **INDUSTRIAL DEVELOPMENT FUND**

43 **SECTION 13.5.** Section 12.5 of S.L. 2003-284 reads as rewritten:

44 "**SECTION 12.5.(a)** The Department of Commerce shall reduce the cash balance of
45 the Industrial Development Fund by ~~one hundred eighty two thousand one hundred~~
46 ~~fifty four dollars (\$182,154).~~ two million one hundred eighty-two thousand one hundred
47 fifty-four dollars (\$2,182,154).

48 "**SECTION 12.5.(b)** This section becomes effective ~~June 30, 2003.~~ June 30, 2004."

49
50 Requested by: Senators Weinstein, Garrou, Dalton, Hagan
51 **WANCHESE SEAFOOD INDUSTRIAL PARK**

52 **SECTION 13.5A.(a)** Funds appropriated to the Department of Commerce
53 for the 2003-2004 fiscal year for the Oregon Inlet Project that are unexpended and
54 unencumbered as of June 30, 2004, shall not revert to the General Fund on June 30,
55 2004, but shall remain available to the Department to be expended by the NC Seafood

1 Industrial Park Authority for operations, maintenance, expansion, repair, and capital
2 improvements in accordance with Article 23C of Chapter 113 of the General Statutes.
3 These funds shall be in addition to any other funds that are available to the Authority for
4 the purposes stated in this section. This subsection becomes effective June 30, 2004.

5 **SECTION 13.5A.(b)** Funds appropriated to the Department of Commerce
6 prior to the 2003-2004 fiscal year for the Oregon Inlet Project that did not revert to the
7 General Fund but remained available to the Department for legal costs associated with
8 the Project shall be available to the NC Seafood Industrial Park Authority for securing
9 adequate channel maintenance of Oregon Inlet and for general operations, maintenance,
10 expansion, repair, and capital improvements in accordance with Article 23C of Chapter
11 113 of the General Statutes. These funds shall be in addition to any other funds
12 available to the Authority for the purposes stated in this section. This subsection
13 becomes effective June 30, 2004.

14
15 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

16 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

17 **SECTION 13.7.** Section 12.7(b) of S.L. 2003-284 reads as rewritten:

18 **"SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this section
19 shall be allocated to each Regional Economic Development Commission as follows:

- 20 (1) First, the Department shall establish each Commission's allocation by
21 determining the sum of allocations to each county that is a member of
22 that Commission. Each county's allocation shall be determined by
23 dividing the county's enterprise factor by the sum of the enterprise
24 factors for eligible counties and multiplying the resulting percentage
25 by the amount of the appropriation. As used in this subdivision, the
26 term "enterprise factor" means a county's enterprise factor as
27 calculated under G.S. 105-129.3; and
- 28 (2) Next, the Department shall subtract from funds allocated to the Global
29 TransPark Development Commission the sum of one hundred
30 seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in
31 ~~each fiscal year, the 2003-2004 fiscal year and the sum of one hundred~~
32 twenty-five thousand six hundred eighty-one dollars (\$125,681) in the
33 2004-2005 fiscal year which sum represents the interest earnings in
34 each fiscal year on the estimated balance of seven million five hundred
35 thousand dollars (\$7,500,000) appropriated to the Global TransPark
36 Development Zone in Section 6 of Chapter 561 of the 1993 Session
37 Laws; and
- 38 (3) Next, the Department shall redistribute the sum of one hundred
39 seventy-one thousand nine hundred seventy-nine dollars (\$171,979) ~~in~~
40 ~~each fiscal year in the 2003-2004 fiscal year and the sum of one~~
41 hundred twenty-five thousand six hundred eighty-one dollars
42 (\$125,681) in the 2004-2005 fiscal year to the seven Regional
43 Economic Development Commissions named in subsection (a) of this
44 section. Each Commission's share of this redistribution shall be
45 determined according to the enterprise factor formula set out in
46 subdivision (1) of this subsection. This redistribution shall be in
47 addition to each Commission's allocation determined under
48 subdivision (1) of this subsection."
49

50 Requested by: Senator Hartsell

51 **TRADE JOBS FOR SUCCESS**

52 **SECTION 13.7A.(a)** The Employment Security Commission shall take all
53 actions practicable to obtain from the U.S. Department of Labor as quickly as possible a
54 waiver under the Trade Adjustment Act to allow the Trade Jobs for Success initiative to
55 (i) serve persons regardless of their age, (ii) use unemployment funds to provide direct

1 monetary incentives to participating employers and direct income to eligible workers in
2 the retraining program, and (iii) use funds for in-State relocation assistance. Waivers
3 shall be sought for other program components, as appropriate.

4 **SECTION 13.7A.(b)** Prior to the granting of a waiver by the U.S.
5 Department of Labor, the funds appropriated in this act to the Department of Commerce
6 for Trade Jobs for Success shall be used to start-up the initiative. It is the intent of the
7 General Assembly to appropriate additional State funds for the initiative in the
8 2005-2006 fiscal year as may be necessary to supplement federal funds and to further
9 stimulate job growth and hiring in the State.

10 **SECTION 13.7A.(c)** The Department of Commerce, in cooperation with the
11 Employment Security Commission and the North Carolina Community College System
12 shall begin implementation of the Trade Jobs for Success initiative in the counties
13 hardest hit by trade impacted job losses and the resulting decline of traditional North
14 Carolina industries including the textile, clothing, and furniture industries and other
15 manufacturing operations. Counties having an unemployment rate of eight percent (8%)
16 or more shall receive priority consideration.

17 **SECTION 13.7A.(d)** The Department of Commerce shall seek, and may
18 receive, private grants and federal funds for the Trade Jobs for Success initiative.

19 **SECTION 13.7A.(e)** Article 10 of Chapter 143B of the General Statutes is
20 amended by adding a new Part to read:

21 "Part 3C. Trade Jobs For Success.

22 **"§ 143B-438.15. Legislative findings and purpose.**

23 (a) The General Assembly finds that State, national, and global economic
24 conditions and the passage of international trade agreements have impacted the State
25 workforce adversely and resulted in significant losses in the availability of jobs in
26 manufacturing and the State's other traditional industries. Further, the General
27 Assembly finds that business and plant closings, the weakened State economy, and
28 lengthening periods of unemployment have taken a toll on communities across the
29 State. It is prudent to address the loss of jobs by establishing a statewide initiative to
30 create more jobs for our citizens.

31 (b) It is the policy of this State to stimulate job growth and hiring by investing in
32 the effective retraining of trade-affected displaced workers while partnering with private
33 business to help those citizens learn new skills for new jobs through on-the-job training
34 and educational assistance.

35 (c) The purpose of this Part is to establish the Trade Jobs for Success initiative to
36 stimulate job growth and hiring in the State and to assist displaced workers affected by
37 trade-impact business closings. The aim of the Trade Jobs for Success initiative shall be
38 to partner with private business to move displaced workers into new jobs while allowing
39 for a dignified transition from unemployment back to employment.

40 **"§ 143B-438.16. Trade Jobs for Success initiative established; funds; program**
41 **components and guidelines.**

42 (a) There is established within the Department of Commerce the Trade Jobs for
43 Success (TJS) initiative. The Department of Commerce shall lead the TJS initiative in
44 cooperation with the Employment Security Commission and the Community Colleges
45 System Office.

46 (b) There is created in the Department of Commerce a special, nonreverting fund
47 called the Trade Jobs for Success Fund (Fund). The Fund shall be used to implement the
48 TJS initiative. The Department of Commerce shall develop guidelines for
49 administration of the TJS initiative and the Fund. An advisory council shall assist the
50 Secretary of Commerce in the administration of the Fund. The members of the advisory
51 council shall include:

52 (1) The Chairman of the Employment Security Commission or that
53 officer's designee.

54 (2) The President of the Community Colleges System or that officer's
55 designee.

- 1 (3) The State Auditor or that officer's designee.
2 (4) A representative of a statewide association to further the interests of
3 business and industry in North Carolina designated by the Secretary of
4 Commerce.
5 (c) At a minimum, the Trade Jobs for Success initiative shall include the
6 following programmatic components:
7 (1) Displaced workers participating in the TJS initiative shall receive (i)
8 on-the-job training to learn new job skills and (ii) educational
9 assistance or remedial education specifically designed to help
10 displaced workers qualify for new jobs.
11 (2) Displaced workers participating in the TJS initiative shall not lose their
12 eligibility for unemployment insurance benefits while they are in the
13 program and may receive wage supplements, as appropriate.
14 (3) In-State relocation assistance, in appropriate instances, where
15 participating individuals must relocate to work for participating
16 employers.
17 (4) Mentoring, both on and off the job, shall be provided to participants in
18 a dignified manner through telephone assistance and other appropriate
19 means.
20 (5) Financial assistance and other incentives may be provided to
21 participating employers who provide jobs to participating displaced
22 workers to help defray the costs of providing the on-the-job training
23 opportunities.
24 (6) Work provided by participating employers as part of the TJS initiative
25 must be full-time employment. Wages paid shall not be less than the
26 hourly entry-level wage normally paid by the employer.
27 (7) Staff of the Employment Security Commission, in conjunction with
28 staff of the Department of Commerce, shall match participating
29 displaced workers to the most suitable employer.
30 (8) Local Employment Security Commission offices and community
31 colleges shall enter into partnership agreements with local chambers of
32 commerce, and other appropriate organizations, that would encourage
33 employer participation in the TJS initiative.
34 (9) Tracking of participating individuals and businesses by the
35 Department of Commerce and the Employment Security Commission
36 to assure program integrity and effectiveness and the compilation of
37 data to generate the reports necessary to evaluate the success of the
38 TJS initiative.
39 (10) Coordination and integration of existing programs in the Department
40 of Commerce, the Employment Security Commission, and the North
41 Carolina Community College System in a manner that maximizes the
42 flexibility of these agencies to effectively assist participating
43 individuals and businesses.

44 **"§ 143B-438.17. Reporting.**

45 The Department of Commerce, in conjunction with the Employment Security
46 Commission and the Community Colleges System Office, shall publish a quarterly
47 report on the Trade Jobs for Success initiative. The report shall provide information on
48 the commitment, disbursement, and use of funds and the status of any grant proposals or
49 waivers requested on behalf of the Trade Jobs for Success initiative. The report shall
50 also include legislative proposals and recommendations regarding statutory changes
51 needed to maximize the effectiveness and flexibility of the TJS initiative. Copies of the
52 report shall be provided to the Joint Legislative Commission on Governmental
53 Operations, to the chairs of the Senate and House of Representatives Appropriations
54 Committees, and to the Fiscal Research Division of the General Assembly.
55

1 Requested by: Senators Queen, Nesbitt, Garrou, Dalton, Hagan

2 **OMNIBUS CHANGES TO EMPLOYMENT SECURITY LAWS/FUNDS TO**
3 **SUPPORT LOCAL ESC OFFICES**

4 **SECTION 13.7B.(a)** G.S. 96-9(d)(2)d. reads as rewritten:

5 "d. As of July 31 of each year, and prior to January 1 of the
6 succeeding year, the Commission shall determine the balance of
7 each such employer's account and shall furnish him with a
8 statement of all charges and credits thereto.

9 As of the second computation date (August 1) following the
10 effective date of liability and as of each computation date
11 thereafter, any credit balance remaining in the employer's
12 account (after all applicable postings) in excess of whichever is
13 the greater (a) benefits charged to such account during the 12
14 months ending on such computation date, or (b) one percent
15 (1%) of taxable wages for the 12 months ending on June 30
16 preceding such computation date shall be refunded. Any such
17 refund shall be made prior to February 1 following such
18 computation date.

19 Should the balance in such account not equal that requiring
20 a refund, the employer shall upon notice and demand for
21 payment mailed to his last known address pay into his account
22 an amount that will bring such balance to the minimum required
23 for a refund. Such amount shall become due on or before the
24 tenth day following the mailing of such notice and demand for
25 payment. Any such amount unpaid on the due date shall be
26 collected in the same manner, including interest, as prescribed
27 in G.S. 96-10.

28 Upon a change in election as to the method of payment from
29 reimbursement to contributions, or upon termination of
30 coverage and after all applicable benefits paid based on wages
31 paid prior to such change in election or termination of coverage
32 have been charged, any credit balance in such account shall be
33 refunded to the employer.

34 Should there be a debit balance in such account, the
35 employer shall, upon notice and demand for payment, mailed to
36 his last-known address, pay into his account an amount equal to
37 such debit balance. Such amount shall become due on or before
38 the tenth day following the mailing of such notice and demand
39 for payment.

40 Any such amount unpaid on the date due shall be collected
41 in the same manner, including interest, as prescribed in
42 G.S. 96-10.

43 Beginning January 1, 1978, each employer paying by
44 reimbursement shall have his account computed on computation
45 date (August 1) and if there is a deficit shall be billed for an
46 amount necessary to bring his account to one percent (1%) of
47 his taxable payroll. Any amount of his account in excess of that
48 required to equal one percent (1%) of his payroll shall be
49 refunded. Amounts due from any employer to bring his account
50 to a one percent (1%) balance shall be billed as soon as
51 practical and payment will be due within 25 days from the date
52 of mailing of the statement of amount due. Amounts due from
53 any nonprofit organization to bring its account to a one percent
54 (1%) balance shall be billed as soon as practical, and payment

1 will be due within 60 days from the date of mailing of the
2 statement of the amount due."

3 **SECTION 13.7B.(b)** G.S. 96-5(c1) is repealed.

4 **SECTION 13.7B.(c)** G.S. 96-15(c) reads as rewritten:

5 "(c) Appeals. – Unless an appeal from the adjudicator is withdrawn, an appeals
6 referee shall set a hearing in which the parties are given reasonable opportunity to be
7 heard. The conduct of hearings shall be governed by suitable regulations established by
8 the Commission. Such regulations need not conform to common law or statutory rules
9 of evidence or technical or formal rules of procedure but shall provide for the conduct
10 of hearings in such manner as to ascertain the substantial rights of the parties. The
11 hearings may be conducted by conference telephone call or other similar means
12 provided that if any party files with the Commission prior written objection to the
13 telephone procedure, that party will be afforded an opportunity for an in-person hearing
14 at such place in the State as the Commission by regulation shall provide. The appeals
15 referee may affirm or modify the conclusion of the adjudicator or issue a new decision
16 in which findings of fact and conclusions of law will be set out or dismiss an appeal
17 when the appellant fails to appear at the appeals hearing to prosecute the appeal after
18 having been duly notified of the appeals hearing. The evidence taken at the hearings
19 before the appeals referee shall be recorded and the decision of the appeals referee shall
20 be deemed to be the final decision of the Commission unless within 10 days after the
21 date of notification or mailing of the decision, whichever is earlier a written appeal is
22 filed pursuant to such regulations as the Commission may adopt. No person may be
23 appointed as an appeals referee unless he or she possesses the minimum qualifications
24 necessary to be a staff attorney eligible for designation by the Commission as a hearing
25 officer under G.S. 96-4(m). No appeals referee in full-time permanent status may
26 engage in the private practice of law as defined in G.S. 84-2.1 while serving in office as
27 appeals referee; violation of this prohibition shall be grounds for removal. Whenever an
28 appeal is taken from a decision of the appeals referee, the appealing party shall submit a
29 clear written statement containing the grounds for the appeal within the time allowed by
30 law for taking the appeal, and if such timely statement is not submitted, ~~an appeals~~
31 ~~referee~~ the Commission may dismiss the appeal."

32 **SECTION 13.7B.(d)** G.S. 96-8(6)k. is amended by adding a new
33 sub-subdivision to read:

34 "k. The term "employment" does not include:

35 ..
36 20. Services performed by an individual who is an alien
37 having residence in a foreign country which the
38 individual has no intention of abandoning who possesses
39 a valid J-1 Visa and is present in the State for a period of
40 six months or less pursuant to the provisions of 8 U.S.C.
41 § 1101(a)(15)(F)(J)(M)(O)."

42 **SECTION 13.7B.(e)** There is appropriated from the Special Employment
43 Security Administration Fund to the Employment Security Commission of North
44 Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the
45 2004-2005 fiscal year to be used for the following purposes:

- 46 (1) Six million dollars (\$6,000,000) for the operation and support of local
47 offices.
48 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
49 Information Coordinating Committee to develop and operate an
50 interagency system to track former participants in State education and
51 training programs.
52 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
53 Chapter 96 of the General Statutes, which directs the Commission to
54 employ the Common Follow-Up Management Information System to

1 evaluate the effectiveness of the State's job training, education, and
 2 placement programs.

3 **SECTION 13.7B.(f)** Notwithstanding the provisions of G.S. 96-5(f), there is
 4 appropriated from the Worker Training Trust Fund to the Community College System
 5 Office the sum of three hundred fifty-nine thousand thirty-five dollars (\$359,035) for
 6 the 2004-2005 fiscal year to be used for a training program in entrepreneurial skills to
 7 be operated by North Carolina REAL Enterprises.

8 **SECTION 13.7B.(g)** Subsection (a) of this section becomes effective
 9 August 1, 2004, and applies to amounts due on or after that date. Subsections (e) and (f)
 10 of this section become effective July 1, 2004. The remainder of this section is effective
 11 when it becomes law.

12
 13 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

14 **RURAL ECONOMIC DEVELOPMENT CENTER**

15 **SECTION 13.8.** Section 12.11 of S.L. 2003-284 reads as rewritten:

16 "**SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural Economic
 17 Development Center, Inc., the sum of one million eight hundred forty-one thousand six
 18 hundred ninety-seven dollars (\$1,881,697) for the 2003-2004 fiscal year and the sum of
 19 ~~one million eight hundred eighty one thousand six hundred ninety seven dollars~~
 20 ~~(\$1,881,697)~~ four million fifty thousand six hundred ninety-seven dollars (\$4,050,697)
 21 for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
22 Research and Demonstration Grants	\$370,000	\$370,000 <u>\$2,395,000</u>
23 Technical Assistance and Center		
24 Administration of Research		
25 and Demonstration Grants	444,399	444,399
26 Center Administration, Oversight,		
27 and Other Programs	604,298	604,298
28 Administration of Clean Water/ 29 Natural Gas Critical Needs		
30 Bond Act of 1998	199,722	199,722
31 Additional Administration of Supplemental		
32 Funding Program	138,278	138,278
33 Administration of Capacity Building		
34 Assistance Program (1998 Bond Act)	125,000	125,000 <u>125,000</u>
35 <u>Institute for Rural Entrepreneurship</u>		<u>144,000</u>

36 **"SECTION 12.11(a1).** Of the funds allocated to Research and Demonstration
 37 Grants for fiscal year 2004-2005 in subsection (a) of this section, the sum of two million
 38 dollars (\$2,000,000) may be allocated to the e-NC Authority to establish up to four
 39 Business and Technology Telecenters.

40 The e-NC Authority may:

- 41 a. Contract with other State agencies, The University of North Carolina,
 42 the North Carolina Community College System, and nonprofit
 43 organizations to assist with program development and the evaluation
 44 of program activities.
- 45 b. Use up to five percent (5%) of the funds allocated in this section to
 46 cover its expenses in program development and implementation of
 47 activity areas.

48 The e-NC Authority shall report to the 2005 General Assembly on the following:

- 49 a. The activities necessary to be undertaken in distressed urban areas of
 50 the State to enhance the capability of citizens and businesses residing
 51 in these areas to access the high-speed Internet.
- 52 b. An implementation plan for the training of citizens and businesses in
 53 distressed urban areas.

c. The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by January 31, 2005, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

....
"SECTION 12.11.(d) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2003-2004 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2004-2005 fiscal year shall be allocated as follows:

(1) \$1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any new or previously funded community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds for the 2004-2005 fiscal year as follows:

a. ~~\$800,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;~~

b. ~~\$197,410 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and~~

a. \$997,410 for direct grants to local community development corporations to support operations and project activities.

e-b. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section."

Requested by: Senators Weinstein, Garrou, Dalton, Hagan

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 13.9. Section 12.12(a) of S.L. 2003-284 reads as rewritten:

"SECTION 12.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2003-2004 fiscal year and the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2004-2005 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers for ongoing job training programs. ~~allocated as follows:~~

(1) ~~\$90,250 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;~~

(2) ~~\$90,250 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;~~

(3) ~~\$90,250 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and~~

(4) ~~\$90,250 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc."~~

PART XIV. JUDICIAL DEPARTMENT

1 Requested by: Senators Thomas, Garrou, Dalton, Hagan

2 **COLLECTION OF WORTHLESS CHECK FUNDS**

3 **SECTION 14.2.** Section 13.2 of S.L. 2003-284 reads as rewritten:

4 "SECTION 13.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial
5 Department may use any balance remaining in the Collection of Worthless Checks Fund
6 on June 30, ~~2003, 2004~~, for the purchase or repair of office or information technology
7 equipment during the ~~2003-2004 fiscal year~~. 2003-2005 biennium. Prior to using any
8 funds under this section, the Judicial Department shall report to the Joint Legislative
9 Commission on Governmental Operations and the Chairs of the Senate and House of
10 Representatives Appropriations Subcommittees on Justice and Public Safety on the
11 equipment to be purchased or repaired and the reasons for the purchases.

12 The Judicial Department may use up to the sum of five hundred thousand dollars
13 (\$500,000) in receipts collected from the Worthless Check Program during the
14 2004-2005 fiscal year to create up to 10 positions in, and to provide equipment for,
15 district attorney's offices that are establishing or expanding programs for the collection
16 of worthless checks. The Judicial Department shall report by March 1, 2005, to the
17 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
18 Justice and Public Safety on the prosecutorial districts in which expansion has been
19 implemented."

20
21 Requested by: Senators Thomas, Dalton, Garrou, Hagan

22 **MEDIATION FUNDING STUDY**

23 **SECTION 14.2A.** The Joint Legislative Corrections, Crime Control, and
24 Juvenile Justice Oversight Committee shall study the funding formula used for the
25 provision of State funding to community mediation centers. The Committee shall report
26 its findings and any recommendations to the 2005 General Assembly.

27
28 Requested by: Senators Thomas, Clodfelter, Garrou, Dalton, Hagan

29 **PLAN TO CONTINUE DRUG COURT SERVICES**

30 **SECTION 14.2B.** The Administrative Office of the Courts shall develop a
31 plan to continue providing drug treatment court services in districts currently offering
32 those services through time-limited non-State funding. This plan shall include a
33 long-range plan for provision of drug treatment court services in any district where
34 feasible and needed. The Administrative Office of the Courts shall report on this plan to
35 the Chairs of the House of Representatives and Senate Appropriations Subcommittees
36 on Justice and Public Safety by March 1, 2005.

37
38 Requested by: Senators Thomas, Garrou, Dalton, Hagan

39 **OFFICE OF INDIGENT DEFENSE SERVICES/EXPANSION FUNDS**

40 **SECTION 14.3.** The Office of Indigent Defense Services may use up to the
41 sum of one million two hundred fifty thousand six hundred thirty-seven dollars
42 (\$1,250,637) in appropriated funds for the expansion of existing offices currently
43 providing legal services to the indigent population under the oversight of the Office of
44 Indigent Defense Services by creating up to 12 new attorney positions and six new
45 support staff positions. These funds may be used for salaries, benefits, equipment, and
46 related expenses. Prior to using funds for this purpose, the Office of Indigent Defense
47 Services shall report to the Chairs of the House of Representatives and the Senate
48 Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

49
50 Requested by: Senators Thomas, Garrou, Dalton, Hagan

51 **ESTABLISH PUBLIC DEFENDERS' OFFICES IN THE FIRST AND TENTH**
52 **DEFENDER DISTRICTS**

53 **SECTION 14.4.(a)** G.S. 7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

<u>Defender District</u>	<u>Counties</u>
<u>1</u>	<u>Camden, Chowan,</u> <u>Currituck, Dare, Gates,</u> <u>Pasquotank, Perquimans</u>
3A	Pitt
3B	Carteret
<u>10</u>	<u>Wake</u>
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

SECTION 14.4.(b) Of the funds appropriated to the Judicial Department, Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services shall use up to the sum of four million four hundred thousand dollars (\$4,400,000) for the 2004-2005 fiscal year to establish public defenders' offices in the First and Tenth Defender Districts, as established in this section.

PART XV. DEPARTMENT OF JUSTICE

Requested by: Senators Thomas, Garrou, Dalton, Hagan

STUDY COST OF THE DCI-PIN SYSTEM

SECTION 15.1. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the cost of the DCI-PIN system, which allows State and local law enforcement agencies to access criminal information from desktop terminals and mobile data laptops installed in vehicles. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to the DCI-PIN system on a per-unit cost basis. The study shall also include a survey of the funding sources used by other states for their DCI-PIN systems. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2005.

Requested by: Senators Thomas, Rand, Garrou, Dalton, Hagan

REDUCE BACKLOG OF RAPE KITS/ADMISSIBILITY OF FORENSIC EVIDENCE

1 **SECTION 15.2.(d)** The Department of Justice shall hire nonsworn
2 personnel to fill all vacant positions in the State Bureau of Investigation laboratory for
3 which the regular duties do not include serving warrants, responding to crimes prior to
4 the crime scene being secured by other law enforcement officers, or entering hazardous
5 situations that may require the use of force.

6 **SECTION 15.2.(e)** Subsection (c) of this section becomes effective
7 December 1, 2004, and applies to offenses committed on or after that date. The
8 remainder of this section becomes effective July 1, 2004.

9
10 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
11 **PREVENTION**

12
13 Requested by: Senators Thomas, Garrou, Dalton, Hagan

14 **STATE FUNDS MAY BE USED AS FEDERAL GRANT MATCHING FUNDS**

15 **SECTION 16.1.** Section 15.4 of S.L. 2003-284 reads as rewritten:

16 **"SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile
17 Justice and Delinquency Prevention for the ~~2003-2004~~ 2004-2005 fiscal year may be
18 used as matching funds for the Juvenile Accountability Incentive Block Grants. If North
19 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
20 to be awarded, the Office of State Budget and Management and the Governor's Crime
21 Commission shall consult with the Department of Juvenile Justice and Delinquency
22 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
23 and Management, the Governor's Crime Commission, and the Department of Juvenile
24 Justice and Delinquency Prevention shall report to the Appropriations Committees of
25 the Senate and House of Representatives and the Joint Legislative Commission on
26 Governmental Operations prior to allocation of the federal funds. The report shall
27 identify the amount of funds to be received for the ~~2003-2004~~ 2004-2005 fiscal year,
28 the amount of funds anticipated for the ~~2004-2005~~ 2005-2006 fiscal year, and the
29 allocation of funds by program and purpose."
30

31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 **PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS**

33 **SECTION 16.3.** The Department of Juvenile Justice and Delinquency
34 Prevention and the Department of Administration, State Construction Office, shall
35 continue planning and design for up to 512 youth development center beds. The
36 Department of Juvenile Justice and Delinquency Prevention shall provide a final
37 recommended plan for new youth development centers by December 1, 2004, to the
38 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
39 Committee, the Chairs of the House of Representatives and Senate Appropriations
40 Committees and the Chairs of the House of Representatives and Senate Appropriations
41 Subcommittees on Justice and Public Safety.

42 The plan shall include all of the following:

- 43 (1) The recommended number of facilities and beds, including plans for
44 up to 512 beds at 13 sites and alternative plans for up to 512 beds at
45 fewer sites.
46 (2) The project schedule for the new facilities, from the bid phase through
47 completion, and the juvenile occupancy of each of the facilities.
48 (3) A detailed schematic of a prototype facility.
49 (4) The facility staffing plan, which shall include the number of positions
50 by job class, the unit cost per position, and the job descriptions of the
51 positions. The plan shall also identify the number of positions to be
52 assigned on each shift for a 24-hour period and the assigned location
53 of each position.
54 (5) A detailed transition plan for recruiting and establishing new positions
55 and converting current positions to new job classes.

- 1 (6) The recommended site locations for each facility, including the
2 specific site location and the county in which each site is located.
3 (7) A comparison of the cost of constructing and operating a youth
4 development center in North Carolina to the cost of constructing and
5 operating similar juvenile facilities in other states.
6 (8) A description of major facility programs, including education, health
7 services, recreation, therapy and clinical services, parental
8 involvement and accountability, and aftercare programs. This
9 description shall also identify programs for female offenders and
10 recommend sites where female offenders will be committed.
11 (9) An explanation of the security components of the new facilities,
12 including internal and perimeter security.
13 (10) Recommendations for new initiatives to provide community-based
14 programs that will reduce youth development center populations.

15 The Department of Administration, State Construction Office, shall assist the
16 Department of Juvenile Justice and Delinquency Prevention, as necessary, with the
17 reports required by this section. The Department of Administration and the Department
18 of Juvenile Justice and Delinquency Prevention shall not solicit bids for construction of
19 new youth development centers until either February 1, 2005, or at least 30 days after
20 submission of the plan, whichever is later.
21

22 Requested by: Senators Thomas, Garrou, Dalton, Hagan

23 **YOUTH DEVELOPMENT CENTER STAFFING**

24 **SECTION 16.4.(a)** With the approval of the Office of State Personnel and
25 the Office of State Budget and Management, the Department of Juvenile Justice and
26 Delinquency Prevention may:

- 27 (1) Reclassify existing departmental vacant positions to establish up to 18
28 new positions in new job classes listed in this subsection. The
29 Department may use departmental salary reserves and salaries from
30 vacant positions to establish these positions. These newly established
31 positions shall be assigned to Stonewall Jackson and Samarkand
32 Youth Development Centers. The positions shall be reclassified as 14
33 youth development center youth counselors, two youth counselor
34 supervisors, and two licensed mental health clinicians.
35 (2) Use one hundred eighty-three thousand nine hundred ninety-two
36 dollars (\$183,992) of funds appropriated in this act to reclassify up to
37 68 existing positions to 58 youth counselors and 10 youth counselor
38 supervisors.

39 These new positions will provide the starting point for the potential
40 implementation of a statewide therapeutic staffing model.

41 **SECTION 16.4.(b)** Prior to establishing new positions or reclassifying
42 positions listed in subsection (a) of this section, the Department of Juvenile Justice and
43 Delinquency Prevention shall prepare a long-range plan for establishing a therapeutic
44 staffing model to be used in all youth development centers. The plan shall include:

- 45 (1) A report on the proposed implementation of 18 new positions and
46 reclassifications identified in subsection (a) of this section. The report
47 shall provide information on (i) the vacant positions to be reallocated
48 to establish new positions, (ii) the amount and source of funds used for
49 these positions, (iii) how the 18 positions will be allocated between
50 Stonewall Jackson and Samarkand and their specific duties, and (iv)
51 how the 68 reclassified positions will be allocated among the existing
52 youth development centers.
53 (2) An outline of the cost and benefits of the proposed model for juveniles
54 in the custody of the Department and a summary of available research
55 regarding the use of therapeutic staffing models in juvenile facilities.

- 1 (3) An action plan and time line for reclassifying current counselor
2 technicians, behavioral specialists, cottage parents, or other current
3 positions to youth counselor or youth counselor supervisor positions or
4 to other job classes that are progressive steps towards youth counselor
5 positions. The Department shall also estimate the number of current
6 statewide positions likely to be reclassified to youth counselor
7 positions, youth counselor supervisors, or other job classes based on
8 the qualifications of the current staff.
- 9 (4) Job specifications, salary grades, and operating costs for each new job
10 class.
- 11 (5) The recommended staffing for and qualifications of teachers and
12 teacher assistants and the standards for evaluating teacher quality in
13 youth development centers.

14 **SECTION 16.4.(c)** The Department of Juvenile Justice and Delinquency
15 Prevention shall report by December 1, 2004, to the Joint Legislative Corrections,
16 Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of
17 Representatives and Senate Appropriations Committees, and the Chairs of the House of
18 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety
19 on the long-range plan required by this section and the budgetary costs for statewide
20 implementation of the therapeutic staffing model.

21
22 Requested by: Senators Thomas, Garrou, Dalton, Hagan

23 **JUVENILE RECIDIVISM**

24 **SECTION 16.5.** Pursuant to G.S. 164-42.1 and G.S. 164-43, the North
25 Carolina Sentencing and Policy Advisory Commission shall prepare biennial reports on
26 juvenile recidivism in North Carolina. The Commission shall consult with the
27 Department of Juvenile Justice and Delinquency Prevention and the Fiscal Research
28 Division of the Legislative Services Office of the General Assembly in developing a
29 methodology for measuring juvenile recidivism in North Carolina. The Commission
30 shall report the proposed methodology to the 2005 General Assembly by March 1,
31 2005. The Commission's report shall also include a timeline for completing the initial
32 analysis and recidivism report and any proposed legislation regarding juvenile
33 recidivism. The report shall also include recommendations for other outcome measures
34 that are appropriate for evaluating juvenile program effectiveness.

35
36 Requested by: Senators Thomas, Garrou, Dalton, Hagan

37 **ELECTRONIC MONITORING OF JUVENILES**

38 **SECTION 16.6.** The Department of Juvenile Justice and Delinquency
39 Prevention shall study the issue of electronic monitoring of juveniles in consultation
40 with the Fiscal Research Division of the Legislative Services Office of the General
41 Assembly and shall report to the Chairs of the House of Representatives and Senate
42 Appropriations Subcommittees on Justice and Public Safety by March 1, 2005, on
43 electronic monitoring programs and electronic house arrest programs for juvenile
44 offenders. The report shall include all of the following:

- 45 (1) Information on current usage, including the number of juveniles in the
46 various programs, by district, and the available capacity of the
47 electronic programs in comparison to the current usage of the
48 programs.
- 49 (2) The criminal histories of the juveniles in electronic monitoring or
50 house arrest programs and how their criminal histories compare to
51 those of juveniles committed to youth development centers.
- 52 (3) An analysis of the costs and benefits of passive and active global
53 positioning systems for monitoring juvenile offenders.
- 54 (4) A comparison of the electronic monitoring programs for juvenile
55 offenders used by other states.

- 1 (5) The Department's recommendations on ways to expand the use of all
2 electronic monitoring programs, in particular as an alternative to
3 committing juveniles to youth development centers.
4

5 PART XVII. DEPARTMENT OF CORRECTION

6
7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 SHIFT PAY FOR SECURITY STAFF

9 SECTION 17.1. Section 16.3 of S.L. 2003-284 reads as rewritten:

10 "SECTION 16.3. The Department of Correction may use funds available for the
11 ~~2003-2004 fiscal year~~ 2003-2005 biennium for the payment to security staff of special
12 supplemental weekend shift premium pay that exceeds standard weekend shift pay by
13 up to ten percent (10%). The Department shall also continue to take steps to hold down
14 the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour
15 shifts whenever practical.

16 The Department of Correction shall report to the Senate and House of
17 Representatives Appropriations Subcommittees on Justice and Public Safety by ~~April 1,~~
18 ~~2004,~~ March 1, 2005, on its progress in converting prison work shifts from eight hours
19 to 12 hours. The report shall include information on savings generated to date and
20 potential future savings, as well as any changes in employee morale and leave usage, as
21 a result of converting to 12-hour shifts."
22

23 Requested by: Senators Thomas, Garrou, Dalton, Hagan

24 DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

25 SECTION 17.2. Section 16.4(c) of S.L. 2003-284 reads as rewritten:

26 "SECTION 16.4.(c) The Department of Correction shall report on its progress in
27 implementing the staffing recommendations of the National Institute of Corrections to
28 the Senate and House of Representatives Appropriations Subcommittees on Justice and
29 Public Safety by ~~February 1, 2004.~~ February 1, 2005. The report shall include a status
30 report on the implementation of a centralized postaudit control system and the
31 automation of leave records. The report shall also provide an updated staffing relief
32 formula and the methodology used to develop the updated formula."
33

34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 INMATE COSTS/ INMATE CLOTHING AND LAUNDRY SERVICES

36 SECTION 17.3. Section 16.6(c) of S.L. 2003-284 reads as rewritten:

37 "SECTION 16.6.(c) Notwithstanding the provisions of G.S. 143-23(a2), the
38 Department of Correction may use funds available during the ~~2003-2004 fiscal year~~
39 2003-2005 biennium for the purchase of clothing and laundry services for inmates if
40 expenditures are projected to exceed the Department's budget for clothing and laundry
41 services. The Department shall consult with the Joint Legislative Commission on
42 Governmental Operations prior to exceeding the continuation budget amount."
43

44 Requested by: Senators Thomas, Garrou, Dalton, Hagan

45 FEDERAL GRANT MATCHING FUNDS

46 SECTION 17.4. Section 16.10 of S.L. 2003-284 reads as rewritten:

47 "SECTION 16.10. Notwithstanding the provisions of G.S. 148-2, the Department of
48 Correction may use up to the sum of nine hundred thousand dollars (\$900,000) in the
49 2003-2004 fiscal year and up to the sum of six hundred fifty thousand dollars
50 (\$650,000) in the 2004-2005 fiscal year from funds available to the Department to
51 provide the State match needed in order to receive federal grant funds. Prior to using
52 funds for this purpose, the Department shall report to the Chairs of the Senate and
53 House of Representatives Appropriations Subcommittees on Justice and Public Safety
54 and the Joint Legislative Commission on Governmental Operations on the grants to be
55 matched using these funds."

1
2 Requested by: Senators Thomas, Garrou, Dalton, Hagan

3 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

4 **SECTION 17.5.** Section 16.13 of S.L. 2003-284 reads as rewritten:

5 "**SECTION 16.13.** The Department of Correction may continue to contract with
6 Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum
7 security female inmates during the 2003-2005 biennium. Energy Committed To
8 Offenders, Inc., shall report by February 1 of each year to the Joint Legislative
9 Commission on Governmental Operations on the annual cost per inmate and the average
10 daily inmate population compared to bed capacity using the same methodology as that
11 used by the Department of Correction. ~~Energy Committed To Offenders, Inc., shall also~~
12 ~~provide information on the rearrest rate and the return to prison rate for inmates~~
13 ~~participating in the program who are paroled or released from prison."~~
14

15 Requested by: Senators Thomas, Garrou, Dalton, Hagan

16 **INMATE CUSTODY AND CLASSIFICATION SYSTEM**

17 **SECTION 17.6.(a)** The Department of Correction shall review the current
18 inmate custody and classification system, with the assistance of consultants from the
19 National Institute of Corrections. The review shall focus primarily on the custody
20 classification instrument used to assess inmate custody and the policies and practice of
21 overriding the assessed custody level. The review should focus particularly on
22 determining whether the instrument is effective in predicting custody classification,
23 analyzing the current override rate by custody level, and assessing any need for changes
24 in the override policy. The Department should request assistance from the National
25 Institute of Corrections in obtaining (i) a comparison between Department of Correction
26 override rates and policies and those of other states; (ii) suggestions on an acceptable
27 override rate for classification systems; and (iii) any recommendations the NIC may
28 have on the Department's custody classification instrument and override policy.

29 **SECTION 17.6.(b)** The Department shall report its findings and
30 recommendations to the Chairs of the House and Senate Appropriations Subcommittees
31 on Justice and Public Safety no later than April 15, 2005.
32

33 Requested by: Senators Thomas, Rand, Garrou, Dalton, Hagan

34 **CONFIDENTIALITY OF IDENTITIES OF PERSONS INVOLVED WITH**
35 **STATE EXECUTIONS**

36 **SECTION 17.6A.** G.S. 15-190 reads as rewritten:

37 "**§ 15-190. Person or persons to be designated by warden to execute sentence;**
38 **supervision of execution; who shall be present.**

39 Some guard or guards or other reliable person or persons to be named and
40 designated by the warden from time to time shall cause the person, convict or felon
41 against whom the death sentence has been so pronounced to be executed as provided by
42 this Article and all amendments thereto. The execution shall be under the general
43 supervision and control of the warden of the penitentiary, who shall from time to time,
44 in writing, name and designate the guard or guards or other reliable person or persons
45 who shall cause the person, convict or felon against whom the death sentence has been
46 pronounced to be executed as provided by this Article and all amendments thereto. At
47 such execution there shall be present the warden or deputy warden or some person
48 designated by the warden in the warden's place, and the surgeon or physician of the
49 penitentiary. Four respectable citizens, two members of the victim's family, the counsel
50 and any relatives of such person, convict or felon and a minister or member of the
51 clergy or religious leader of the person's choosing may be present if they so desire. The
52 identities, including the names, residential addresses, residential telephone numbers, and
53 social security numbers, of witnesses or persons designated to carry out the execution
54 shall be confidential and exempted from Chapter 132 of the General Statutes and are not
55 subject to discovery or introduction as evidence in any proceeding. The Senior Resident

1 Superior Court Judge for Wake County may order disclosure of names made
2 confidential by this section after making findings that support a conclusion that
3 disclosure is necessary to a proper administration of justice."
4

5 Requested by: Senators Thomas, Soles, Garrou, Dalton, Hagan

6 **PROVIDE THAT COLUMBUS COUNTY PRISON SHALL BE**
7 **CONSTRUCTED IN ACCORDANCE WITH SAME NORTH CAROLINA**
8 **STATE BUILDING CODE UNDER WHICH THE PRISONS IN SCOTLAND,**
9 **ANSON, ALEXANDER, GREENE, AND BERTIE COUNTIES WERE**
10 **CONSTRUCTED**

11 **SECTION 17.6B.** The 1000-cell close security prototypical prison to be
12 constructed in Columbus County shall be constructed in accordance with the North
13 Carolina State Building Code, 1996 Edition through 1999 revisions, if construction
14 starts before July 1, 2005. This section applies only if the construction documents have
15 been reviewed and approved by the Department of Insurance, the State Construction
16 Office, and the Department of Correction.
17

18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **RESERVE FOR INCREASING PRISON BEDS AT PAMLICO**
20 **CORRECTIONAL CENTER**

21 **SECTION 17.6C.(a)** Of the funds appropriated in this act to the Department
22 of Correction, the sum of two hundred sixteen thousand one hundred twenty-six dollars
23 (\$216,126) shall be placed in a reserve for increasing the inmate bed capacity at
24 Pamlico Correctional Center. These funds may be used for kitchen equipment, inmate
25 beds and lockers, and other miscellaneous equipment if it is determined that it is
26 feasible to increase bed capacity at Pamlico by 336 beds by double-celling medium
27 custody inmates.

28 **SECTION 17.6C.(b)** The Department of Correction shall work in
29 conjunction with the Department of Environment and Natural Resources and the Bay
30 River Metro Sewage Authority to determine whether there is adequate permitted sewage
31 and wastewater capacity for adding 336 inmates and up to 50 staff at Pamlico. This
32 work shall include negotiations for the use of current permitted capacity with the
33 Authority and other involved parties if feasible. The Department of Correction, in
34 conjunction with the Department of Environment and Natural Resources and the
35 Authority, shall also identify any potential costs of using current permitted capacity or
36 expanding capacity. The Department of Correction shall also work with the Department
37 of Environment and Natural Resources, the Authority, and the Department of
38 Commerce to identify alternative funding sources, if needed, for providing sewage
39 capacity for the expansion of Pamlico Correctional Center.

40 **SECTION 17.6C.(c)** The Department of Correction may reclassify vacant
41 positions and use salary funds from vacant positions and salary reserves to establish up
42 to 50 new positions to provide security, programs, and other support functions if a
43 suitable agreement is reached on providing sewage treatment and disposal to Pamlico
44 Correctional Center that allows for increasing inmates by up to 336 and staff by up to
45 50.

46 **SECTION 17.6C.(d)** The Department of Correction, in conjunction with the
47 Department of Environment and Natural Resources and the Department of Commerce,
48 shall provide a progress report on their work by October 1, 2004, to the Joint Legislative
49 Corrections, Crime Control, and Juvenile Justice Oversight Committee. Prior to
50 establishing positions or expending funds from the reserve established in subsection (a)
51 of this section, the Department of Correction shall report to the Joint Legislative
52 Commission on Governmental Operations, or to the Chairs of the House of
53 Representatives and Senate Appropriations Committees and the Chairs of the House of
54 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety
55 if the General Assembly is in session at the time, on the sewage treatment and disposal

1 alternatives, the recommended alternative, funding needs and sources, and time line for
2 implementation of increased bed capacity, including staffing and inmate occupancy.

3
4 Requested by: Senators Thomas, Garrou, Dalton, Hagan

5 **REPORTS ON NONPROFIT PROGRAMS**

6 **SECTION 17.7.** Section 16.17 of S.L. 2003-284 reads as rewritten:

7 "**SECTION 16.17.(a)** Funds appropriated in this act to the Department of
8 Correction to support the programs of Harriet's House may be used for program
9 operating costs, the purchase of equipment, and the rental of real property. Harriet's
10 House shall report by February 1 of each year to the Joint Legislative Commission on
11 Governmental Operations on the expenditure of State appropriations and on the
12 effectiveness of the program, including information on the number of clients ~~served and~~
13 served, the number of clients who successfully complete the Harriet's House ~~program-~~
14 program, and the long-term success of program graduates.

15 "**SECTION 16.17.(b)** Summit House shall report by February 1 of each year to the
16 Joint Legislative Commission on Governmental Operations on the expenditure of State
17 appropriations and on the effectiveness of the program, including information on the
18 number of clients served, the number of clients who have had their probation revoked,
19 ~~and~~ the number of clients who successfully complete the program while housed at
20 Summit House, ~~Inc.~~, and the long-term success of program graduates.

21 "**SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year to the
22 Joint Legislative Commission on Governmental Operations on the expenditure of State
23 funds and on the effectiveness of the program, including information on the number of
24 clients served, the number of clients who have had their probation revoked, ~~and~~ the
25 number of clients who have successfully completed the ~~program.~~ program, and the
26 long-term success of program graduates.

27
28 Requested by: Senators Thomas, Garrou, Dalton, Hagan

29 **ELECTRONIC MONITORING REQUEST FOR PROPOSALS**

30 **SECTION 17.8.** The Department of Correction shall issue a Request for
31 Proposal for electronic monitoring equipment and monitoring services for the Division
32 of Community Corrections' electronic house arrest and electronic monitoring programs.
33 The RFP shall require separate bids: one for equipment, maintenance, and technical
34 support, and one for the aforementioned items plus monitoring services. The
35 Department shall design the RFP to use the most recent, cost-effective technology
36 available; the Department shall not restrict vendors to the specifications of the
37 equipment currently utilized by the Department. The RFP shall also include a bid
38 request for passive and active Global Positioning System monitoring equipment. No
39 less than 30 days prior to issuing the RFP, the Department shall provide the Fiscal
40 Research Division with a copy of the draft RFP. The RFP shall be issued by December
41 31, 2004, for a contract term to begin July 1, 2005.

42 The Department of Correction shall report by March 1, 2005, to the Chairs of
43 the House and Senate Appropriations Committees and the Chairs of the House and
44 Senate Appropriations Subcommittees on Justice and Public Safety on the responses to
45 the RFP.

46
47 Requested by: Senators Thomas, Garrou, Dalton, Hagan

48 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

49 **SECTION 17.9.** Section 16.20 of S.L. 2003-284 reads as rewritten:

50 "**SECTION 16.20.** The Post-Release Supervision and Parole Commission shall
51 report by January 15 and July 15 of each year to the Senate and House of
52 Representatives Appropriations Subcommittees on Justice and Public Safety and the
53 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
54 on inmates eligible for parole. These reports shall include at least the following:

- 1 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
2 that were parole-eligible during the current fiscal year and the total
3 number of those inmates that were paroled. The report should group
4 these inmates by offense type, custody classification, and type of
5 parole. The report should also include a more specific analysis of those
6 inmates who were parole-eligible and assigned to minimum custody
7 classification but not released;
- 8 (2) The average time served, by offense class, of Fair Sentencing and
9 Pre-Fair Sentencing inmates compared to inmates sentenced under
10 Structured Sentencing; and
- 11 (3) The projected number of parole-eligible inmates to be paroled or
12 released by the end of the 2003-2004 fiscal year and by the end of each
13 of the next five fiscal years, beginning with the 2004-2005 fiscal year."

14
15 Requested by: Senators Thomas, Garrou, Dalton, Hagan

16 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
17 **STAFFING REORGANIZATION AND REDUCTION**

18 **SECTION 17.10.** Section 16.21 of S.L. 2003-284 reads as rewritten:

19 "**SECTION 16.21.(a)** The Post-Release Supervision and Parole Commission shall
20 report by October 1, 2003, to the Chairs of the Senate and House of Representatives
21 Appropriations Subcommittees on Justice and Public Safety on a plan for restructuring
22 the organization and operation of the Commission and implementing staff reductions to
23 reflect both declines and changes in workload.

24 "**SECTION 16.21.(b)** The Post-Release Supervision and Parole Commission shall
25 report by December 1, 2004, to the Chairs of the Senate and House of Representatives
26 Appropriations Subcommittees on Justice and Public Safety on the implementation of
27 the plan for restructuring the organization and operation of the Commission and for
28 implementing staff reductions to reflect both declines and changes in workload. The
29 report shall include the number of parole reviews, paroles, and post-release supervision
30 reviews conducted per analyst per year for the last five years and the percentage of each
31 analyst's time that was devoted to post-release supervision cases during each of those
32 five years.

33 "**SECTION 16.21.(c)** The Department of Correction, in consultation with the
34 Post-Release Supervision and Parole Commission, shall review alternatives for
35 transferring the responsibility for setting conditions of post-release supervision to
36 another division within the Department of Correction or to the Judicial Department.
37 Based upon its study, the Department of Correction shall make written
38 recommendations to the Chairs of the House of Representatives and Senate
39 Appropriations Committees, the Chairs of the House of Representatives and Senate
40 Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative
41 Commission on Governmental Operations no later than December 1, 2004."

42
43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

44 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

45 **SECTION 17.11.** Section 16.16 of S.L. 2003-284 reads as rewritten:

46 "**SECTION 16.16.(a)** It is the intent of the General Assembly that State Criminal
47 Justice Partnership Program funds not be used to fund case manager positions when
48 those services can be reasonably provided by Division of Community Corrections
49 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
50 Department of Health and Human Services.

51 "**SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15
52 specifying that grants to participating counties are for the full fiscal year and that
53 unobligated funds are returned to the State-County Criminal Justice Partnership
54 Account at the end of the grant period, the Department of Correction may reallocate
55 unspent or unclaimed funds distributed to counties participating in the State-County

1 Criminal Justice Partnership Program in an effort to maintain the level of services
2 realized in previous fiscal years.

3 **"SECTION 16.16.(c)** The Department of Correction may not deny funds to a
4 county to support both a residential program and a day reporting center if the
5 Department of Correction determines that the county has a demonstrated need and a
6 fully developed plan for each type of sanction.

7 **"SECTION 16.16.(d)** The Department of Correction shall report by February 1 of
8 each year to the Chairs of the Senate and House of Representatives Appropriations
9 Committees, the Senate and House of Representatives Appropriations Subcommittees
10 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
11 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
12 Partnership Program. The report shall include the following information:

- 13 (1) The amount of funds carried over from the prior fiscal year;
- 14 (2) The dollar amount and purpose of grants awarded to counties as
15 discretionary grants for the current fiscal year;
- 16 (3) Any counties the Department anticipates will submit requests for new
17 implementation grants;
- 18 (4) An update on efforts to ensure that all counties make use of the
19 electronic reporting system, including the number of counties
20 submitting offender participation data via the system;
- 21 (5) An analysis of offender participation data received, including data on
22 each program's utilization and capacity; ~~and~~
- 23 (6) An analysis of comparable programs, prepared by the Research and
24 Planning Division of the Department of Correction, and a summary of
25 the reports prepared by county Criminal Justice Partnerships Advisory
26 ~~Boards.~~ Boards; and
- 27 (7) An evaluation of Criminal Justice Partnership programs based upon
28 evaluation standards designed by the Division of Community
29 Corrections in consultation with the Fiscal Research Division and the
30 Department of Correction, Division of Research and Planning.

31 **"SECTION 16.16.(e)** Notwithstanding the provisions of G.S. 143B-273.15, funding
32 to programs for the 2004-2005 fiscal year shall be established according to the amounts
33 appropriated for the 2003-2004 fiscal year. The Joint Legislative Corrections, Crime
34 Control, and Juvenile Justice Oversight Committee, in consultation with the Sentencing
35 and Policy Advisory Commission and the Department of Correction, Division of
36 Research and Planning, shall review the Criminal Justice Partnership Program funding
37 formula and recommend any necessary changes in that formula to the 2005 General
38 Assembly."

39
40 Requested by: Senators Thomas, Garrou, Dalton, Hagan

41 **COLLECTION OF OFFENDER FEES**

42 **SECTION 17.12.** Section 16.15 of S.L. 2003-284 reads as rewritten:

43 **"SECTION 16.15.(a)** The Department of Correction and the Judicial Department
44 shall report by April 1, 2004, and March 1, 2005, to the Chairs of the Senate and House
45 of Representatives Appropriations Committees and the Chairs of the Senate and House
46 of Representatives Appropriations Subcommittees on Justice and Public Safety on the
47 success of their efforts to improve the collection rate of offender fees for probationers
48 and for nonprobationers sentenced to community service and on any recommendations
49 for statutory or procedural changes that will improve the collection of financial
50 obligations from offenders.

51 The report shall include a comparison of the ~~percentage of total~~ offender fees
52 collected in the most recent year compared to prior years, ~~including the percentage of~~
53 ~~offenders who were ordered to pay fees and the percentage of offenders who actually~~
54 ~~paid those fees.~~ years. The report shall also ~~include the total offender fees collected, in~~
55 ~~dollars and as a percentage of the fees ordered, and the fees that could have been~~

1 ~~ordered based on the sentence and conditions imposed by the judge. include, for each~~
2 ~~judicial district: the total offender fees collected, the total fines and restitution collected,~~
3 ~~the number of offenders ordered to supervised probation, the number of offenders~~
4 ~~ordered to unsupervised probation, the number and percentage of supervised probation~~
5 ~~cases in which no payment was made, the number and percentage of unsupervised~~
6 ~~probation cases (any case in which an offender is not given an active or supervised~~
7 ~~probation sentence) in which no payment was made, and whether that judicial district~~
8 ~~enters offender information into the financial management system for all offenders~~
9 ~~required to pay fines, fees, or restitution, or whether that data is entered only when the~~
10 ~~offender makes a payment. If any of this information cannot be collected, the report~~
11 ~~shall include a description of the data collection issues and a plan for addressing those~~
12 ~~issues.~~

13 "SECTION 16.15.(b) The Judicial Department shall make use of the new deputy
14 clerk positions funded in this act to ensure that offender accounts payable information is
15 entered into the financial management system within a reasonable time after sentencing.
16 As part of this undertaking, the Judicial Department shall review the use of its financial
17 management system to determine whether there are methods of streamlining or
18 expediting the entry of offender accounts payable information into that system."
19

20 Requested by: Senators Dalton, Thomas, Nesbitt, Queen, Garrou, Hagan
21 **PROVIDE THAT THE UNLAWFUL DISTRIBUTION OF**
22 **METHAMPHETAMINE THAT PROXIMATELY RESULTS IN THE**
23 **DEATH OF A PERSON IS SECOND DEGREE MURDER, MAKE IT AN**
24 **AGGRAVATING FACTOR TO MANUFACTURE METHAMPHETAMINE**
25 **IN A LOCATION THAT ENDANGERS A CHILD, INCREASE THE**
26 **CRIMINAL PENALTY FOR THE UNLAWFUL MANUFACTURE OF**
27 **METHAMPHETAMINE, INCREASE THE CRIMINAL PENALTY FOR**
28 **THE POSSESSION OF PRECURSOR SUBSTANCES FOR**
29 **METHAMPHETAMINE, AND REQUIRE THE COMMISSION FOR**
30 **HEALTH SERVICES TO ESTABLISH DECONTAMINATION**
31 **STANDARDS FOR PROPERTY USED FOR THE MANUFACTURE OF**
32 **METHAMPHETAMINE**

33 SECTION 17.13.(a) G.S. 14-17 reads as rewritten:

34 "**§ 14-17. Murder in the first and second degree defined; punishment.**

35 A murder which shall be perpetrated by means of a nuclear, biological, or chemical
36 weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait,
37 imprisonment, starving, torture, or by any other kind of willful, deliberate, and
38 premeditated killing, or which shall be committed in the perpetration or attempted
39 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
40 felony committed or attempted with the use of a deadly weapon shall be deemed to be
41 murder in the first degree, a Class A felony, and any person who commits such murder
42 shall be punished with death or imprisonment in the State's prison for life without parole
43 as the court shall determine pursuant to G.S. 15A-2000, except that any such person
44 who was under 17 years of age at the time of the murder shall be punished with
45 imprisonment in the State's prison for life without parole. Provided, however, any
46 person under the age of 17 who commits murder in the first degree while serving a
47 prison sentence imposed for a prior murder or while on escape from a prison sentence
48 imposed for a prior murder shall be punished with death or imprisonment in the State's
49 prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.
50 All other kinds of murder, including that which shall be proximately caused by the
51 unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or
52 preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or
53 methamphetamine, when the ingestion of such substance causes the death of the user,
54 shall be deemed murder in the second degree, and any person who commits such
55 murder shall be punished as a Class B2 felon."

1 **SECTION 17.13.(b)** G.S. 15A-1340.16(d) is amended by adding a new
2 subdivision to read:

3 "(16a) The offense is the manufacture of methamphetamine and was
4 committed where a person under the age of 18 lives, was present, or
5 was otherwise endangered by exposure to the drug, its ingredients, its
6 by-products, or its waste."

7 **SECTION 17.13.(c)** G.S. 90-95(b) reads as rewritten:

8 "(b) Except as provided in subsections (h) and (i) of this section, any person who
9 violates G.S. 90-95(a)(1) with respect to:

10 (1) A controlled substance classified in Schedule I or II shall be punished
11 as a Class H felon, except ~~that~~ as follows: (i) the sale of a controlled
12 substance classified in Schedule I or II shall be punished as a Class G
13 felon; felony, and (ii) the manufacture of methamphetamine shall be
14 punished as provided by subdivision (1a) of this subsection.

15 (1a) The manufacture of methamphetamine shall be punished as a Class C
16 felony unless the offense was one of the following: packaging or
17 repackaging methamphetamine, or labeling or relabeling the
18 methamphetamine container. The offense of packaging or repackaging
19 methamphetamine, or labeling or relabeling the methamphetamine
20 container shall be punished as a Class H felony.

21 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be
22 punished as a Class I felon, except that the sale of a controlled
23 substance classified in Schedule III, IV, V, or VI shall be punished as a
24 Class H felon. The transfer of less than 5 grams of marijuana for no
25 remuneration shall not constitute a delivery in violation of
26 G.S. 90-95(a)(1)."

27 **SECTION 17.13.(d)** G.S. 90-95(d1) reads as rewritten:

28 "(d1) Except as authorized by this Article, it is unlawful for any person to:

- 29 (1) Possess an immediate precursor chemical with intent to manufacture a
30 controlled substance; or
31 (2) Possess or distribute an immediate precursor chemical knowing, or
32 having reasonable cause to believe, that the immediate precursor
33 chemical will be used to manufacture a controlled substance.

34 Any person who violates this subsection shall be punished as a Class ~~H-F~~ felon."

35 **SECTION 17.13.(e)** G.S. 90-95(d2) reads as rewritten:

36 "(d2) The immediate precursor chemicals to which subsection (d1) of this section
37 applies are those immediate precursor chemicals designated by the Commission
38 pursuant to its authority under G.S. 90-88, and the following (until otherwise specified
39 by the Commission):

- 40 (1) Acetic anhydride.
41 (2) Acetone.
42 ~~(1)~~(3) Anhydrous ammonia.
43 ~~(1a)~~(4) Anthranilic acid.
44 (5) Benzyl chloride.
45 ~~(2)~~(6) Benzyl cyanide.
46 (7) 2-Butanone (Methyl Ethyl Ketone).
47 ~~(3)~~(8) Chloroephedrine.
48 ~~(4)~~(9) Chloropseudoephedrine.
49 ~~(5)~~(10) D-lysergic acid.
50 ~~(6)~~(11) Ephedrine.
51 ~~(7)~~(12) Ergonovine maleate.
52 ~~(8)~~(13) Ergotamine tartrate.
53 (14) Ethyl ether.
54 ~~(9)~~(15) Ethyl Malonate.
55 ~~(10)~~(16) Ethylamine.

1 (17) Gamma-butyrolactone.
 2 (18) Hydrochloric Acid.
 3 ~~(10a)~~(19) Iodine.
 4 ~~(11)~~(20) Isosafrole.
 5 ~~(11a)~~(21) Lithium.
 6 ~~(12)~~(22) Malonic acid.
 7 ~~(13)~~(23) Methylamine.
 8 (24) Methyl Isobutyl Ketone.
 9 ~~(14)~~(25) N-acetylanthranilic acid.
 10 ~~(15)~~(26) N-ethylephedrine.
 11 ~~(16)~~(27) N-ethylepseudoephedrine.
 12 ~~(17)~~(28) N-methylephedrine.
 13 ~~(18)~~(29) N-methylpseudoephedrine.
 14 ~~(19)~~(30) Norpseudoephedrine.
 15 ~~(20)~~(31) Phenyl-2-propane.
 16 ~~(21)~~(32) Phenylacetic acid.
 17 ~~(22)~~(33) Phenylpropanolamine.
 18 ~~(23)~~(34) Piperidine.
 19 ~~(24)~~(35) Piperonal.
 20 ~~(25)~~(36) Propionic anhydride.
 21 ~~(26)~~(37) Pseudoephedrine.
 22 ~~(27)~~(38) Pyrrolidine.
 23 ~~(27a)~~(39) Red phosphorous.
 24 ~~(28)~~(40) Safrole.
 25 ~~(28a)~~(41) Sodium.
 26 (42) Sulfuric Acid.
 27 (43) Tetrachloroethylene.
 28 ~~(29)~~(44) Thionylchloride.
 29 (45) Toluene.
 30 ~~(30)~~ ~~Gamma-butyrolactone."~~

31 **SECTION 17.13.(f)** Article 8 of Chapter 130A of the General Statutes is
 32 amended by adding a new Part to read:

33 "Part 12. Decontamination Standards for Methamphetamine Sites.

34 "**§ 130A-284. Decontamination of property used for the manufacture of**
 35 **methamphetamine.**

36 For the protection of the public health, the Commission shall adopt rules establishing
 37 decontamination standards to ensure that certain property is reasonably safe for
 38 habitation. An owner, lessee, operator or other person in control of a residence or place
 39 of business or any structure appurtenant to a residence or place of business, and who has
 40 knowledge that the property has been used for the manufacture of methamphetamine,
 41 shall comply with these rules. For purposes of this section, the terms "residence" and
 42 "place of business" shall be defined as set forth in G.S. 130A-334."

43 **SECTION 17.13.(g)** Subsections (a) through (e) of this section become
 44 effective December 1, 2004, and apply to offenses committed on or after that date.
 45 Prosecutions for offenses occurring before the effective date of this section are not
 46 abated or affected by this act, and the statutes that would be applicable but for this act
 47 remain applicable to those prosecutions. Subsection (f) of this section becomes effective
 48 January 1, 2005. The remainder of this section becomes effective July 1, 2004, at which
 49 time the Commission for Health Services may adopt rules under subsection (f) of this
 50 section.

51 **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

52 Requested by: Senators Thomas, Garrou, Dalton, Hagan
 53 **VICTIMS COMPENSATION/MEDICAL TREATMENT**

SECTION 18.1. G.S. 15B-2(1) reads as rewritten:

"(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, ~~medically-related~~ medically-related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of three thousand five hundred dollars (\$3,500) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service.

Allowable expense for medical care, counseling, rehabilitation, medically-related property, and other remedial treatment and care of a victim shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount usually charged by the provider for the treatment or care. By accepting the compensation paid as allowable expense pursuant to this subdivision, the provider agrees that the compensation is payment in full for the treatment or care and shall not charge or otherwise hold a claimant financially responsible for the cost of services in addition to the amount of allowable expense."

Requested by: Senators Thomas, Garrou, Dalton, Hagan

ABOLISH STATE BOXING COMMISSION

SECTION 18.2.(a) Article 68 of Chapter 143 of the General Statutes is repealed.

SECTION 18.2.(b) G.S. 90-18.3 reads as rewritten:

"§ 90-18.3. Physical examination by nurse practitioners and physician assistants.

(a) Whenever a statute or State agency rule requires that a physical examination shall be conducted by a physician, the examination may be conducted and the form signed by a nurse practitioner or a physician's assistant, and a physician need not be present. Nothing in this section shall otherwise change the scope of practice of a nurse practitioner or a physician's assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2, respectively.

(b) This section shall not apply to physical examinations conducted pursuant to G.S. 1A-1, Rule 35; G.S. 15B-12; ~~G.S. 90-14; or any rules adopted by the North Carolina Boxing Commission requiring physical examinations or G.S. 90-14~~ unless those statutes or rules are amended to make the provisions of this section applicable."

Requested by: Senators Rand, Garrou, Dalton, Hagan

CLARIFY THE AUTHORITY OF THE STATE HIGHWAY PATROL TO OPERATE WEIGH STATIONS

SECTION 18.3.(a) The title to Article 3B of Chapter 20 of the General Statutes reads as rewritten:

"Article 3B.

Permanent ~~Weighing~~ Weigh Stations and Portable Scales."

SECTION 18.3.(b) G.S. 20-183.9 reads as rewritten:

"§ 20-183.9. Establishment and maintenance of permanent ~~weighing~~ weigh stations.

The Department of Crime Control and Public Safety is hereby authorized, empowered and directed to equip, operate, and maintain permanent ~~weighing~~ weigh stations equipped to weigh vehicles using the streets and highways of this State to determine whether such vehicles are being operated in accordance with legislative enactments relating to weights of vehicles and their loads. The permanent ~~weighing~~ weigh stations shall be established at such locations on the streets and highways in this State as will enable them to be used most advantageously in determining the weight of vehicles and their loads."

1 **SECTION 18.3.(c)** G.S. 20-183.10 reads as rewritten:

2 "**§ 20-183.10. Operation of the permanent weigh stations by the Department of**
3 **Crime Control and Public Safety—~~Safety, Division of State Highway~~**
4 **~~Patrol, uniformed personnel with powers of peace officers, personnel.~~**

5 The permanent ~~weighing~~ weigh stations to be established pursuant to the provisions
6 of this Article shall be operated by the Department of Crime Control and Public ~~Safety~~
7 ~~Safety, Division of State Highway Patrol, who shall assign a sufficient number of sworn~~
8 ~~and nonsworn personnel and the personnel assigned to the various stations—weigh~~
9 ~~stations. Sworn personnel of the Division of State Highway Patrol shall supervise all~~
10 ~~nonsworn personnel assigned to weigh stations. The sworn and nonsworn personnel~~
11 ~~shall have authority to weigh vehicles and to assess civil penalties pursuant to Article 3,~~
12 ~~Part 9 of this Chapter and shall wear uniforms to be selected and furnished by the~~
13 ~~Department of Crime Control and Public Safety—~~Safety, Division of State Highway~~~~
14 ~~Patrol. The uniformed sworn and nonsworn personnel assigned to the various permanent~~
15 ~~weigh stations shall weigh vehicles and complete various reports as may be necessary~~
16 ~~for recording violations relating to the weight of vehicles and their loads. The uniformed~~
17 ~~officers assigned to the various permanent weighing—weigh stations shall have the~~
18 ~~powers of peace officers for the purpose of enforcing the provisions of this Chapter and~~
19 ~~in making arrests, serving process, and appearing in court in all matters and things~~
20 ~~relating to the weight of vehicles and their loads."~~

21 **SECTION 18.3.(d)** G.S. 20-364 reads as rewritten:

22 "**§ 20-364. Route changes.**

23 Irrespective of the route shown on the permit, an alternate route will be followed:

- 24 (1) If directed by a peace officer.
25 (2) If directed by a uniformed officer assigned to a ~~weighing~~ weigh station
26 to follow a route to a weighing device.
27 (3) If the specified route is officially detoured. Should a detour be
28 encountered, the driver shall check with the office issuing permit on
29 which he is traveling prior to proceeding."
30

31 Requested by: Senators Thomas, Rand, Dalton, Garrou, Hagan

32 **REPORT ON VIPER SYSTEM**

33 **SECTION 18.4.** The Criminal Justice Information Network (CJIN)
34 Governing Board and the Department of Crime Control and Public Safety shall report to
35 the Joint Legislative Transportation Oversight Committee and to the Joint Legislative
36 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Voice
37 Interoperability Plan for Emergency Responders (VIPER) system. The report shall
38 include a detailed project plan for the VIPER system, the projected costs to the State for
39 the system, the revenue sources to fund the system, and the amount of total State
40 funding, including Highway Fund support, recommended by the CJIN Board and the
41 Department. The report shall also address the potential cost to, and any other impact on,
42 county and local governments. The Department and the CJIN Board shall report
43 pursuant to this section on or before December 1, 2004.
44

45 **PART XIX. DEPARTMENT OF ADMINISTRATION**

46
47 Requested by: Senators Clodfelter, Dorsett, Garrou, Dalton, Hagan

48 **ALLOCATION OF THE PETROLEUM VIOLATION ESCROW FUNDS**

49 **SECTION 19.1.(a)** There is appropriated from funds and interest thereon
50 received from the case of United States v. Stripper Well that remain in the Special
51 Reserve for Oil Overcharge Funds to the Department of Administration the sum of five
52 million dollars (\$5,000,000) for the 2004-2005 fiscal year to be allocated for projects
53 that were approved by the State Energy Policy Council in April 2004.

54 **SECTION 19.1.(b)** There is appropriated from funds and interest thereon
55 that remain in the Special Reserve for Oil Overcharge Funds to the Department of

1 Health and Human Services the sum of one million dollars (\$1,000,000) for the
2 2004-2005 fiscal year to be allocated for the Weatherization Assistance Program.

3 **SECTION 19.1.(c)** Any funds remaining in the Special Reserve for Oil
4 Overcharge Funds after the allocation made pursuant to subsections (a) and (b) of this
5 section are appropriated for the 2004-2005 fiscal year to be allocated for debt service
6 associated with energy efficient repairs and renovations.

7 **SECTION 19.1.(d)** Any appropriated funds that are unexpended or
8 unencumbered at the end of the 2004-2005 fiscal year shall revert to the special fund
9 from which they were appropriated.

10
11 Requested by: Senators Hargett, Dorsett, Garrou, Dalton, Hagan

12 **STATE VETERANS CEMETERIES TO PROVIDE BURIAL SERVICES ON**
13 **WEEKENDS**

14 **SECTION 19.2.(a)** Article 8A of Chapter 65 of the General Statutes is
15 amended by adding a new section to read:

16 "**§ 65-44. Days for burial.**

17 Notwithstanding any other provision of law, burial services may be conducted from
18 Monday through Sunday, except when the day for services falls on a State holiday."

19 **SECTION 19.2.(b)** The Department of Administration may use funds
20 credited to the Veterans Burial Fund for the 2004-2005 fiscal year to cover costs
21 incurred as a result of burials on Saturday or Sunday.

22
23 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

24 **STUDY OF STATE-FUNDED ADVERTISING**

25 **SECTION 19.3.(a)** The Office of State Budget and Management, in
26 collaboration with the Department of Administration, shall conduct a study of the State
27 agencies' requirements for advertisements and public service announcements. The study
28 shall include a review of the nature and cost of the advertisements and public service
29 announcements. The study shall consider (i) the extent to which the North Carolina
30 Agency for Public Telecommunication (APT) can efficiently and effectively provide the
31 services related to the development and placement of these advertisements and public
32 service announcements at a savings to the State, and (ii) whether the services should be
33 provided by APT, decentralized, or outsourced.

34 **SECTION 19.3.(b)** The Office of State Budget and Management shall
35 submit a report of its findings and recommendations to the Chairs of the Appropriations
36 Subcommittees on General Government of the Senate and House of Representatives by
37 December 1, 2004.

38
39 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

40 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
41 **FUND**

42 **SECTION 19.4.** Section 18.5(c) of S.L. 2003-284 reads as rewritten:

43 "**SECTION 18.5.(c)** In accordance with G.S. 116B-7(b) as enacted by this act, ~~for~~
44 ~~the 2003-2004 and 2004-2005 fiscal years,~~ there is appropriated from the Escheat Fund
45 to the Department of Administration the amount of three million ~~seven-nine~~ hundred
46 ~~twenty-eight~~ thirty thousand three hundred twenty-four dollars ~~(\$3,728,324)~~
47 (\$3,903,324) for each year the 2004-2005 fiscal year."

48
49 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

50 **RELOCATION AND RENT EXPENSES ASSOCIATED WITH THE SALE OF**
51 **POLK BUILDING**

52 **SECTION 19.5.** Upon the sale of the James K. Polk Building in the City of
53 Charlotte, the Director of the Budget may use any available funds to pay related moving
54 and rent expenses for the 2004-2005 fiscal year, not to exceed eight hundred ninety
55 thousand six hundred thirty-four dollars (\$890,634). Up to one hundred sixty thousand

1 one hundred one dollars (\$160,101) shall be used to cover the expenses of relocating the
2 offices of the University of North Carolina at Chapel Hill TEACH program, the Office
3 of Administrative Hearings, the Office of the State Auditor, and the Departments of
4 Administration, Commerce, Correction, Crime Control and Public Safety, Health and
5 Human Services, and Revenue, that are currently housed in the Polk Building. Up to
6 seven hundred thirty thousand five hundred thirty-three dollars (\$730,533) shall be used
7 to cover the rent expense incurred by those State agencies for the 2004-2005 fiscal year
8 as a result of the relocation.
9

10 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

11 **CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE**
12 **DEPARTMENT OF ADMINISTRATION**

13 **SECTION 19.6.** Section 18.2 of S.L. 2003-284 reads as rewritten:

14 **"STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF**
15 **ADMINISTRATION**

16 **SECTION 18.2.** The Secretary of the Department of Administration, in
17 collaboration with appropriate entities which concentrate on public policy and business
18 management, shall study continue the study that was completed during the 2003-2004
19 fiscal year of the functions of the advocacy programs that are housed in the Department
20 of Administration to determine the appropriate organizational placement of the
21 programs within State government. The study shall include both the advocacy and
22 service functions of the Division of Veterans Affairs, the Council for Women and the
23 Domestic Violence Commission, the Commission of Indian Affairs, the Governor's
24 Advocacy Council for Persons with Disabilities, the Human Relations Commission, and
25 the Youth Advocacy and Involvement Office. The study shall also consider whether the
26 functions of the programs could be more efficiently and effectively performed by an
27 appropriate nonprofit organization. The Secretary shall report the findings and
28 recommendations to the Joint Legislative Commission on Governmental Operations and
29 to the Chairs of the Senate and House of Representatives Appropriations Committees by
30 May 1, 2004-2005."
31

32 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

33 **DESIGN AND ADVANCE PLANNING FOR STATE VETERANS CEMETERY**

34 **SECTION 19.7.** Of the funds appropriated in this act to the Department of
35 Administration, the Department shall use up to three hundred thousand dollars
36 (\$300,000) for the 2004-2005 fiscal year to fund the design and advance planning cost
37 for the expansion of the State veterans cemetery located in Jacksonville. Any
38 reimbursement from the U.S. Department of Veterans Affairs for the amount expended
39 on the design and advance planning of the cemetery expansion project shall be
40 deposited into the General Fund.
41

42 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

43 **TRANSFER LIGHT GROUND POCOSIN TO WILDLIFE RESOURCES**
44 **COMMISSION**

45 **SECTION 19.8.** The 1094-acre Light Ground Pocosin property in Pamlico
46 County is reallocated from the Department of Administration to the Wildlife Resources
47 Commission. Notwithstanding any other provision of law, the Wildlife Resources
48 Commission shall manage the property as gamelands for hunting, fishing, outdoor
49 recreation, nature study, water quality, and conservation of natural resources.
50

51 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

52 **IMPLEMENT BLOUNT STREET PROPERTY SALE**

53 **SECTION 19.9.** Section 1.(d) of S.L. 2003-404 reads as rewritten:

54 **"SECTION 1.(d)** Funds to implement the sales process. – Of the funds available to
55 the Department of Administration, the Department may use up to ~~three hundred~~

1 ~~thousand dollars (\$300,000)~~ five hundred thousand dollars (\$500,000) to implement the
2 provisions of this act."
3

4 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

5 **NORTH CAROLINA YOUTH ADVOCACY AND INVOLVEMENT FUND**

6 **SECTION 19.10.** G.S. 143B-387.1 reads as rewritten:

7 "**§ 143B-387.1. North Carolina Youth ~~Legislative Assembly~~ Advocacy and**
8 **Involvement Fund.**

9 The North Carolina Youth ~~Legislative Assembly~~ Advocacy and Involvement Fund is
10 created as a special and nonreverting fund. ~~North Carolina Youth Legislative~~
11 ~~Assembly~~ Conference registration fees, gifts, donations, or contributions to or for the
12 North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students
13 Against Destructive Decisions (SADD) programs shall be credited to the ~~North Carolina~~
14 ~~Youth Legislative Assembly~~ Fund.

15 The ~~fund~~ Fund shall be used solely to support planning and execution of the ~~North~~
16 ~~Carolina Youth Legislative Assembly~~ YLA and SADD programs. The Department shall
17 maintain separate cost centers for each program."
18

19 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

20 **STORMWATER MANAGEMENT FOR STATE FACILITIES**

21 **SECTION 19.11.(a)** G.S. 143-214.7 reads as rewritten:

22 "**§ 143-214.7. Stormwater runoff rules and programs.**

23 (a) Policy, Purpose and Intent. – The Commission shall undertake a continuing
24 planning process to develop and adopt a statewide plan with regard to establishing and
25 enforcing stormwater rules for the purpose of protecting the surface waters of the State.
26 It is the purpose and intent of this section that, in developing stormwater runoff rules
27 and programs, the Commission may utilize stormwater rules established by the
28 Commission to protect classified shellfish waters, water supply watersheds, and
29 outstanding resource waters; and to control stormwater runoff disposal in coastal
30 counties and other nonpoint sources. Further, it is the intent of this section that the
31 Commission phase in the stormwater rules on a priority basis for all sources of pollution
32 to the water. The plan shall be applied evenhandedly throughout the State to address the
33 State's water quality needs. The Commission shall continually monitor water quality in
34 the State and shall revise stormwater runoff rules as necessary to protect water quality.
35 As necessary, the stormwater rules shall be modified to comply with federal regulations.

36 (b) The Commission shall implement stormwater runoff rules and programs for
37 point and nonpoint sources on a phased-in statewide basis. The Commission shall
38 consider standards and best management practices for the protection of the State's water
39 resources in the following order of priority:

- 40 (1) Classified shellfish waters.
- 41 (2) Water supply watersheds.
- 42 (3) Outstanding resource waters.
- 43 (4) High quality waters.
- 44 (5) All other waters of the State to the extent that the Commission finds

45 control of stormwater is needed to meet the purposes of this Article.

46 (b1) When a State facility is constructed or undergoes a major renovation, one of
47 the following requirements shall be satisfied in order to provide for the proper collection
48 and treatment of stormwater:

- 49 (1) Stormwater is collected and treated on the site of the facility.
- 50 (2) Stormwater is filtered prior to discharge.
- 51 (3) The facility is included in a local or regional stormwater collection and
52 treatment system.

53 (c) The Commission shall develop model stormwater management programs that
54 may be implemented by State agencies and units of local government. Model
55 stormwater management programs shall be developed to protect existing water uses and

1 assure compliance with water quality standards and classifications. A State agency or
 2 unit of local government may submit to the Commission for its approval a stormwater
 3 control program for implementation within its jurisdiction. To this end, State agencies
 4 may adopt rules, and units of local government are authorized to adopt ordinances and
 5 regulations necessary to establish and enforce stormwater control programs. Units of
 6 local government are authorized to create or designate agencies or subdivisions to
 7 administer and enforce the programs. Two or more units of local government are
 8 authorized to establish a joint program and to enter into any agreements that are
 9 necessary for the proper administration and enforcement of the program.

10 (d) The Commission shall review each stormwater management program
 11 submitted by a State agency or unit of local government and shall notify the State
 12 agency or unit of local government that submitted the program that the program has
 13 been approved, approved with modifications, or disapproved. The Commission shall
 14 approve a program only if it finds that the standards of the program equal or exceed
 15 those of the model program adopted by the Commission pursuant to this section.

16 (e) The Commission shall annually report to the Environmental Review
 17 Commission on the implementation of this section, including the status of any
 18 stormwater control programs administered by State agencies and units of local
 19 government, on or before 1 October of each year."

20 **SECTION 19.11.(b)** G.S. 143-341(3) reads as rewritten:

21 "The Department of Administration has the following powers and duties:

22
 23 (3) Architecture and Engineering:

- 24 a. To examine and approve all plans and specifications for the
 25 construction or renovation of:
 - 26 1. All State buildings or buildings located on State lands,
 27 except those buildings over which a local building code
 28 inspection department has and exercises jurisdiction; and
 - 29 2. All community college buildings requiring the estimated
 30 expenditure for construction or repair work for which
 31 public bidding is required under G.S. 143-129 prior to
 32 the awarding of a contract for such work; and to examine
 33 and approve all changes in those plans and specifications
 34 made after the contract for such work has been awarded.
- 35 b. To assist, as necessary, all agencies in the preparation of
 36 requests for appropriations for the construction or renovation of
 37 all State buildings.
- 38 b1. To certify that a statement of needs pursuant to G.S. 143-6 is
 39 feasible. For purposes of this sub-subdivision, "feasible" means
 40 that the proposed project is sufficiently defined in overall scope;
 41 building program; site development; detailed design,
 42 construction, and equipment budgets; and comprehensive
 43 project scheduling so as to reasonably ensure that it may be
 44 completed with the amount of funds requested. To be feasible,
 45 the site development and detailed design also, in accordance
 46 with G.S. 143-214.7(b1), must include plans to collect and treat
 47 stormwater on the site, to filter stormwater prior to discharge, or
 48 to include the building in a local or regional stormwater
 49 collection and treatment system. At the discretion of the
 50 General Assembly, advanced planning funds may be
 51 appropriated in support of this certification. This
 52 sub-subdivision shall not apply to requests for appropriations of
 53 less than one hundred thousand dollars (\$100,000).
- 54 c. To supervise the letting of all contracts for the design,
 55 construction or renovation of all State buildings and all

1 community college buildings whose plans and specifications
 2 must be examined and approved under a.2. of this subdivision.
 3 d. To supervise and inspect all work done and materials used in
 4 the construction or renovation of all State buildings and all
 5 community college buildings whose plans and specifications
 6 must be examined and approved under a.2. of this subdivision;
 7 and no such work may be accepted by the State or by any State
 8 agency until it has been approved by the Department.
 9 Except for sub-subdivisions b. and b1. of this subdivision, this
 10 subdivision does not apply to the design, construction, or renovation of
 11 projects by The University of North Carolina pursuant to
 12 G.S. 116-31.11."
 13

14 **PART XX. OFFICE OF THE STATE AUDITOR**

15
 16 Requested by: Senators Dorsett, Garrou, Dalton, Hagan
 17 **AUDITOR TO REDUCE SPAN OF CONTROL**

18 **SECTION 20.1.** The State Auditor shall reduce the span of control for the
 19 Office of the State Auditor by eliminating two senior management positions no later
 20 than January 1, 2005. In reducing the span of control, the State Auditor shall ensure that
 21 the Office has no more than two Deputy Auditor positions. Funds appropriated for the
 22 positions that are eliminated shall be used to create additional audit positions for the
 23 nongovernmental and investigative audit sections. The State Auditor shall report to the
 24 Chairs of the Appropriations Subcommittees on General Government of the Senate and
 25 House of Representatives by December 1, 2004.
 26

27 **PART XX-A. HOUSING FINANCE AGENCY**

28
 29 Requested by: Senators Dalton, Hagan, Dorsett, Garrou
 30 **HOUSING FINANCE AGENCY SHALL CREATE THE NORTH CAROLINA**
 31 **HOME PROTECTION PILOT PROGRAM AND LOAN FUND IN ORDER**
 32 **TO ASSIST NORTH CAROLINA WORKERS WHO HAVE LOST JOBS AS**
 33 **A RESULT OF CHANGING ECONOMIC CONDITIONS IN NORTH**
 34 **CAROLINA WHEN THE WORKERS ARE IN NEED OF TEMPORARY**
 35 **ASSISTANCE TO AVOID LOSING THEIR HOMES TO FORECLOSURE**

36 **SECTION 20A.1.(a)** The North Carolina Housing Finance Agency shall
 37 develop, implement, and administer a pilot program to assist North Carolina workers
 38 who have lost jobs as a result of changing economic conditions in North Carolina when
 39 the workers are in need of assistance to avoid losing their homes to foreclosure. The
 40 Agency shall do all of the following:

- 41 (1) Develop and administer the North Carolina Home Protection Pilot
 42 Program and Loan Fund to ensure that workers in the counties selected
 43 for the Pilot have assistance to avoid losing their homes to foreclosure.
 44 The Program shall include counties selected at the discretion of the
 45 Agency on the basis of increased rates of foreclosure, actual
 46 foreclosure filings, unemployment, the need of local counseling
 47 agencies for increased capacity to serve clients in need of assistance to
 48 avoid losing their homes to foreclosure, and the availability of funds,
 49 and other factors the Agency determines to be relevant.
- 50 (2) Make loans secured by liens on residential real property located in
 51 North Carolina to property owners who are eligible for those loans.
- 52 (3) Develop and administer procedures by which property owners at risk
 53 of being foreclosed upon may qualify for assistance.
- 54 (4) Designate and approve nonprofit counseling agencies in each county
 55 participating in the Program to be available to assist the Agency in

1 implementing the provisions of this section, to provide services such as
2 direct services and lender negotiations on behalf of unemployed
3 workers, and to process loan applications for the Agency.

- 4 (5) Develop and fund enhanced methods by which workers may be
5 notified of foreclosure mitigation services, may easily contact local
6 nonprofit counseling agencies, and may apply for loans from the
7 Agency.
8 (6) No later than May 1, 2005, report to the General Assembly on the
9 effectiveness of the Program in accomplishing its purposes, and
10 provide any other information the Agency determines is pertinent or
11 the General Assembly requests.

12 **SECTION 20A.1.(b)** As used in this section, the following definitions
13 apply:

- 14 (1) Agency. – The North Carolina Housing Finance Agency.
15 (2) Counseling agency. – A nonprofit counseling agency located in North
16 Carolina that is approved by the North Carolina Housing Finance
17 Agency.
18 (3) Mortgage. – An obligation evidenced by a security document and
19 secured by a lien upon real property located within North Carolina,
20 including a deed of trust and land sale agreement. Mortgage also
21 means an obligation evidenced by a security lien on real property upon
22 which an owner-occupied mobile home is located.

23 **SECTION 20A.1.(c)** The North Carolina Housing Finance Agency shall
24 conduct a study and convene meetings of experts for the purpose of developing a report
25 to the 2005 General Assembly. The report shall include recommendations regarding (i)
26 the problem of increasing foreclosure filings statewide, (ii) improvements to the laws
27 regarding foreclosure procedures and other laws that impact foreclosure filings, and (iii)
28 the benefits and feasibility of creating a foreclosure avoidance loan fund. The Agency
29 may use no more than twenty-five thousand dollars (\$25,000) of the funds appropriated
30 in this act to the Agency to implement this subsection. The Agency shall report its
31 recommendations to the General Assembly on or before May 1, 2005.

32
33 Requested by: Senators Queen, Dorsett, Garrou, Dalton, Hagan

34 **EQUITY-BUILDING HOMES**

35 **SECTION 20A.2.** The Legislative Research Commission may study
36 methods to substantially increase the number of North Carolinians who own
37 equity-building homes. As part of the study, the Commission may:

- 38 (1) Determine the extent to which the public is knowledgeable about
39 housing products that are likely to build equity over time.
40 (2) Identify State, federal, and local barriers to constructing
41 equity-building homes in both high-demand locations and also rural
42 areas.
43 (3) Investigate the adequacy and funding of programs and counseling
44 services that are available to educate consumers about home financing
45 products, credit remediation, home maintenance, and foreclosure
46 prevention strategies.

47 As used in this section, the term "equity-building home" means a residential
48 structure that will be the purchaser's primary residence and that met the State and local
49 building code standards in place at the time of construction, or if there were no building
50 codes in effect at the time of construction, that was constructed on-site. An
51 equity-building home will also have characteristics that are likely to cause it to
52 appreciate in value over time.

53 The Commission shall report its findings and recommendations to the 2005
54 General Assembly.
55

PART XXI. DEPARTMENT OF INSURANCE

Requested by: Senators Dorsett, Garrou, Dalton, Hagan

REMOVE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE DEPARTMENT OF INSURANCE THROUGH THE INSURANCE REGULATORY FUND

SECTION 21.1. Section 12 of S.L. 2002-144, as amended by Section 22.2 of S.L. 2003-284, reads as rewritten:

"**SECTION 12.** This act becomes effective July 1, 2002. ~~Sections 1 through 8 of this act expire June 30, 2004.~~"

Requested by: Senators Dalton, Garrou, Hagan

HANDBOOKS ON BUILDING CODE NOT REQUIRED

SECTION 21.2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

~~Handbooks providing explanatory material on Code provisions shall be provided no later than January 1, 2000, and shall be updated with each revision of the Code or, in the discretion of the Council, more frequently. The Department may charge a reasonable fee for the handbooks."~~

Requested by: Senators Dorsett, Garrou, Dalton, Hagan

CONTINUING EDUCATION REQUIREMENTS FOR BAIL BONDSMEN

SECTION 21.3. G.S. 58-71-71(b) reads as rewritten:

"(b) Each year every licensee shall complete at least ~~six~~three hours of continuing education in subjects related to the duties and responsibilities of a runner or bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination. A person who receives his first license on or after January 1 of any year does not have to comply with this subsection until the period between his first and second license renewals."

PART XXII. INFORMATION TECHNOLOGY

Requested by: Senators Dorsett, Garrou, Dalton, Hagan

MULTIYEAR MAINTENANCE CONTRACTS

SECTION 22.1. Section 21.2 of S.L. 2003-284 reads as rewritten:

"**SECTION 21.2.(a)** Notwithstanding the cash management provisions of G.S. 146-86.11, the State Controller may authorize the Office of Information Technology Services (ITS) to purchase not more than four infrastructure maintenance agreements for periods not exceeding two years where the terms of those maintenance agreements require payment of the full purchase price at the beginning of the maintenance period. The State Controller shall not authorize the agreements authorized by this section unless all of the following conditions are met:

- (1) The proposed infrastructure maintenance agreement is entered into after ~~June 30, 2003, June 30, 2004,~~ and before July 1, ~~2004, 2005.~~
- (2) The State Controller receives conclusive evidence that the proposed infrastructure agreement would be more cost-effective than any similar agreement that complies with G.S. 146-86.11.
- (3) The State Controller verifies that the savings resulting from the proposed infrastructure agreement will be passed on to ~~network~~-users in the form of lower rates for ITS services.

1 (4) The purchase of the proposed maintenance agreement complies in all
2 other respects with applicable statutes and rules.

3 (5) ITS shall make adjustments of excess revenue, based on
4 IRMC-approved rates, over allowable costs. ~~ITS shall refund the~~
5 ~~excess to ITS' State and local government customers in the same~~
6 ~~manner as is required by the federal government in the Office of~~
7 ~~Management and Budget Circular A-87.~~

8 "SECTION 21.2.(b) The State Controller shall provide full justification for any
9 authorizations granted under this section to the Joint Legislative Commission on
10 Governmental Operations and to the Fiscal Research Division of the General Assembly
11 within 60 days after the authorization is granted."
12

13 PART XXIII. DEPARTMENT OF REVENUE

14
15 Requested by: Senator Dorsett

16 EXTEND DEPARTMENT OF REVENUE CALL CENTER FEE USE

17 SECTION 23.1. There is appropriated from the collection assistance fee
18 account created in G.S. 105-243.1 to the Department of Revenue the sum of six hundred
19 fifty thousand dollars (\$650,000) for the 2004-2005 fiscal year for operating costs of a
20 central taxpayer telecommunications service center.
21

22 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

23 DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER 24 SERVICES AND COLLECTION

25 SECTION 23.2.(a) G.S. 105-243.1(e) reads as rewritten:

26 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs
27 of collecting overdue tax debts. The proceeds of the fee must be credited to a special
28 account within the Department and may be expended only as provided in this
29 subsection. The proceeds of the fee may not be used for any purpose that is not directly
30 and primarily related to collecting overdue tax debts. The Department may apply the
31 proceeds of the fee for the purposes listed in this subsection. ~~to pay contractors for~~
32 ~~collecting tax debts under subsection (b) of this section and to pay the fee the United~~
33 ~~States Department of the Treasury charges for setoff to recover tax owed to North~~
34 ~~Carolina.~~ The remaining proceeds of the fee may be spent only pursuant to
35 appropriation by the General Assembly. The fee proceeds do not revert but remain in
36 the special account until spent for the costs of collecting overdue tax debts. The
37 Department may apply the fee proceeds for the following purposes:

38 (1) To pay contractors for collecting overdue tax debts under subsection
39 (b) of this section.

40 (2) To pay the fee the United States Department of the Treasury charges
41 for setoff to recover tax owed to North Carolina.

42 (3) To pay for taxpayer locater services, not to exceed one hundred
43 thousand dollars (\$100,000) a year."

44 SECTION 23.2.(b) Funds are appropriated in this act from the collection
45 assistance fee account created in G.S. 105-243.1 to the Department of Revenue for
46 postage for correspondence directly and primarily relating to collecting overdue tax
47 debts, for operating expenses for Project Collect Tax, and for expenses of the
48 Examinations and Collections Division directly and primarily relating to collecting
49 overdue tax debts as defined in G.S. 105-243.1. The Department of Revenue and the
50 Office of State Budget and Management must account for all expenditures using
51 accounting procedures that clearly distinguish costs allocable to collecting overdue tax
52 debts as defined in G.S. 105-243.1 from costs allocable to other purposes and must
53 demonstrate that none of the fee proceeds are used for any purpose other than collecting
54 overdue tax debts.

1 The Department of Revenue must report to the 2005 General Assembly on its
2 implementation of this section.

3
4 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

5 **MODIFY DEPARTMENT OF REVENUE REPORTING TO THE JOINT**
6 **LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS**

7 **SECTION 23.3.(a)** Section 22.6(c) of S.L. 2002-126 reads as rewritten:

8 "**SECTION 22.6.(c)** Beginning January 1, 2003, and ending ~~on the second~~
9 ~~quarter~~ six months following completion of the projects described in subsection (a) of
10 this section, the Department of Revenue must report ~~quarterly~~ semiannually to the Joint
11 Legislative Commission on Governmental Operations on the use of the funds and the
12 progress of establishing the new center."

13 **SECTION 23.3.(b)** G.S. 105-256(e) is repealed.

14 **SECTION 23.3.(c)** G.S. 105-243.1(f) reads as rewritten:

15 "(f) Reports. – The Department must report semiannually to the Joint Legislative
16 Commission on Governmental Operations and to the Revenue Laws Study Committee
17 on its efforts to collect tax debts. ~~Reports must be submitted quarterly beginning~~
18 ~~November 1, 2001, through June 30, 2005, and semiannually thereafter.~~ Each report
19 must include a breakdown of the amount and age of tax debts collected by collection
20 agencies on contract, the amount and age of tax debts collected by the Department
21 through warning letters, and the amount and age of tax debts otherwise collected by
22 Department personnel. The report must itemize collections by type of tax. Each report
23 must also include a long-term collection plan, a timeline for implementing each step of
24 the plan, a summary of steps taken since the last report and their results, and any other
25 data requested by the Commission or the Committee."

26
27 **PART XXV. SECRETARY OF STATE**

28
29 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

30 **REPEAL OF TRANSFER OF CONSULTATION REQUIREMENT UNDER**
31 **BUSINESS LICENSE INFORMATION OFFICE TO SMALL BUSINESS**
32 **CENTERS**

33 **SECTION 25.2.** Section 24.1 of S.L. 2003-284 is repealed.

34
35 **PART XXVI. STATE BOARD OF ELECTIONS**

36
37 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

38 **INCREASE HAVA MATCH FUNDS**

39 **SECTION 26.1.** Section 25.1 of S.L. 2003-284 reads as rewritten:

40 "**SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections for
41 the 2003-2004 fiscal year by Section 2.1 of this act:

- 42 (1) The sum of \$1,791,936 is transferred to a Reserve Fund to meet the
43 Maintenance of Effort requirements of section 254(a)(7) of the Help
44 America Vote Act, Public Law 107-252.
- 45 (2) The sum of \$1,665,650 currently appropriated to Fund 1100
46 Administration for the SEIMS RCC is transferred to a Reserve Fund
47 for the State Board of Elections.
- 48 (3) The sum of \$1,922,215 is transferred in the 2003-2004 fiscal year and
49 the sum of \$1,521,918 is transferred in the 2004-2005 fiscal year to the
50 Election Fund established by S.L. 2003-12 to meet the five percent
51 (5%) matching requirement of Title II Help America Vote Act, Public
52 Law 107-252 for the 2003-2005 fiscal biennium. Of that amount,
53 ~~\$1,188,760~~ \$1,232,508 shall be available for expenditure in the
54 2003-2004 fiscal year, and the remaining ~~\$733,455~~ \$2,211,625 shall be
55 available for expenditure only during the 2004-2005 fiscal year. The

1 money shall only be expended as federal funds are available to match,
2 and if the amount available to the State is less than projected, the
3 unexpended remainder of the \$1,922,215 for the 2003-2004 fiscal year
4 and \$1,521,918 for the 2004-2005 fiscal year shall revert to the
5 General Fund on the earlier of:

- 6 a. June 30, 2006; or
- 7 b. A determination by the Office of State Budget and Management
8 that the unexpended remainder will not be needed.

9 **"SECTION 25.1.(b)** The 107th Congress established the Help America Vote Act
10 (HAVA) as Public Law 107-252 establishing a program to assist in the administration
11 of federal elections and provide assistance with the administration of certain federal
12 elections laws and programs; establish minimum election administration standards for
13 states and units of local government with the responsibility for the administration of
14 federal elections. In HAVA, Congress authorized appropriations for elections assistance
15 in the form of a matching grant program (Title II of HAVA, Requirements Payments)
16 for which states are required as one condition of the Election Assistance Requirements
17 Payments to match federal allocations with a five percent (5%) match of State dollars.
18 The federal government has additional requirements, including a required state plan and
19 a stipulation for each participating state to implement the Maintenance of Effort (MOE)
20 requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state
21 maintain the expenditures of the state for activities funded by the payment at a level that
22 is not less than the level of such expenditures maintained by the state for the fiscal year
23 ending prior to November 2000. Congress authorized up to \$1.4 billion for
24 Requirements Payments, and \$810 million for Title II requirements grants was funded
25 for fiscal year 2003. ~~Title II requirements funding has not been passed by Congress for~~
26 ~~fiscal years 2004 2005 and 2005 2006 but is currently proposed at \$500 million for~~
27 ~~each year.~~

28 Based upon the 2003 and 2004 approved funding, it is estimated that North Carolina
29 will receive ~~\$22.6 million~~ \$23,431,708 of the Title II funding if North Carolina meets
30 all the conditions of the Election Assistance program, including not only the five
31 percent (5%) state match but also maintenance of its expenditure level on HAVA
32 activities at the expense level the State Board of Elections had in State fiscal year
33 1999-2000. Actual expenditures for the State Elections Information Management
34 System (SEIMS), which is a qualified HAVA activity, in 1999-2000 were three million
35 four hundred fifty-seven thousand five hundred eighty-five dollars and six cents
36 (\$3,457,585.06). The authorized expenditures on SEIMS in 2002-2003 by the State
37 Board of Elections is one million six hundred sixty-five thousand six hundred fifty
38 dollars (\$1,665,650). The difference in expenditure levels is one million seven hundred
39 ninety-one thousand nine hundred thirty-five dollars and six cents (\$1,791,935.06). To
40 meet HAVA's Title II MOE requirement, North Carolina has to appropriate from its
41 General Fund to a Reserve on a recurring basis (or for as long as Congress requires the
42 MOE as a condition of states' being eligible to receive Requirements Payments), the
43 amount of three million four hundred fifty-seven thousand five hundred eighty-five
44 dollars and six cents (\$3,457,585.06) annually.

45 For the State to meet its obligatory five percent (5%) match for HAVA's Title II
46 Requirements Payments, North Carolina has to match ~~twenty-two million six hundred~~
47 ~~thousand dollars (\$22,600,000)~~ twenty-three million four hundred thirty-one thousand
48 seven hundred eight dollars (\$23,431,708) estimated federal funds in 2003-2004;
49 ~~thirteen million nine hundred forty four thousand dollars (\$13,944,000)~~ forty-two
50 million forty-six thousand one hundred dollars (\$42,046,100) estimated federal funds in
51 2004-2005. The State's match is ~~one million one hundred eighty eight thousand seven~~
52 ~~hundred sixty dollars (\$1,188,760)~~ in 2003 2004 and ~~seven hundred thirty three~~
53 ~~thousand four hundred fifty five dollars (\$733,455)~~ in 2004 2005; one million two
54 hundred thirty-two thousand five hundred eight dollars (\$1,232,508) in 2003-2004 and
55 two million two hundred eleven thousand six hundred twenty-five dollars (\$2,211,625)

1 in 2004-2005. The nonrecurring match total required for the 2003-2005 fiscal biennium
2 from the General Fund is one million nine hundred twenty-two thousand two hundred
3 fifteen dollars (\$1,922,215)."
4

5 Requested by: Senators Rand, Dorsett, Garrou, Dalton, Hagan

6 **STATE BOARD OF ELECTIONS FUNDS TO FINANCE JUDICIAL**
7 **CAMPAIGNS**

8 **SECTION 26.2.(a)** Funds appropriated to the State Board of Elections for
9 the 2003-2004 fiscal year that are unexpended and unencumbered as of June 30, 2004,
10 shall not revert to the General Fund but shall remain available to the Board to finance
11 judicial campaigns.

12 **SECTION 26.2.(b)** This section becomes effective June 30, 2004.
13

14 **PART XXVII. OFFICE OF STATE BUDGET AND MANAGEMENT**
15

16 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

17 **NC HUMANITIES COUNCIL**

18 **SECTION 27.1.** Section 26.1 of S.L. 2003-284 reads as rewritten:

19 **"NC HUMANITIES COUNCIL**

20 **SECTION 26.1.** The North Carolina Humanities Council shall:

- 21 (1) By January 15, ~~2004,2005~~, and more frequently as requested, report to
22 the Joint Legislative Commission on Governmental Operations and the
23 Fiscal Research Division the following information:
24 a. State fiscal year ~~2002-2003~~2003-2004 program activities,
25 objectives, and accomplishments;
26 b. State fiscal year ~~2002-2003~~2003-2004 itemized expenditures
27 and fund sources;
28 c. State fiscal year ~~2003-2004~~2004-2005 planned activities,
29 objectives, and accomplishments including actual results
30 through December 31, ~~2003;2004~~; and
31 d. State fiscal year ~~2003-2004~~2004-2005 estimated itemized
32 expenditures and fund sources including actual expenditures
33 and fund sources through December 31, ~~2003,2004~~.
34 (2) Provide to the Fiscal Research Division a copy of the organization's
35 annual audited financial statement within 30 days of issuance of the
36 statement."
37

38 **PART XXVIII. OFFICE OF THE STATE CONTROLLER**
39

40 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

41 **OVERPAYMENTS AUDIT**

42 **SECTION 28.1.(a)** During the 2004-2005 fiscal year, receipts generated by
43 the collection of inadvertent overpayments by State agencies to vendors as a result of
44 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
45 refunds, erroneously paid excise taxes, and related errors as required by
46 G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

47 **SECTION 28.1.(b)** For the 2004-2005 fiscal year, two hundred thousand
48 dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172
49 shall be used by the Office of the State Controller for data processing, debt collection,
50 or e-commerce costs.

51 **SECTION 28.1.(c)** All funds available in the Special Reserve Account
52 24172 on July 1, 2004, are transferred to the General Fund on that date.

53 **SECTION 28.1.(d)** Any unobligated funds in the Special Reserve Account
54 24172 that are realized above the allowance in subsection (b) of this section are subject
55 to appropriation by the General Assembly in the 2005 Regular Session.

1 **SECTION 28.1.(e)** The State Controller shall report quarterly to the Joint
 2 Legislative Commission on Governmental Operations and the Fiscal Research Division
 3 on the revenue deposited into the Special Reserve Account and the disbursement of that
 4 revenue.

5
 6 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

7 **STATE BUSINESS INFRASTRUCTURE PROJECT**

8 **SECTION 28.2.(a)** The Office of the State Controller is authorized to utilize
 9 up to one million eight hundred thousand dollars (\$1,800,000) for the 2004-2005 fiscal
 10 year from the Flexible Benefits Funds to develop a Request for Proposal (RFP) to
 11 replace or enhance the Human Resources and Payroll systems for the State. The RFP
 12 shall be developed utilizing the approach outline in the Statewide Business
 13 Infrastructure Project Report as submitted by the Office of the State Controller to the
 14 2004 Session of the General Assembly. The RFP shall deliver to the 2005 Session of the
 15 General Assembly and shall include a detailed plan for addressing the business
 16 requirement to Human Resources/Payroll along with an estimate of costs for the project.

17 **SECTION 28.2.(b)** This section does not apply to institutions of The
 18 University of North Carolina or the North Carolina Community College System.

19
 20 **PART XXVIII-A. OFFICE OF STATE PERSONNEL**

21
 22 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

23 **STUDY STATE PERSONNEL ACT**

24 **SECTION 28A.1.** The General Assembly shall study issues related to the
 25 State Personnel Act. The Speaker of the House of Representatives and the President Pro
 26 Tempore of the Senate shall designate an appropriate committee to conduct the study.
 27 The committee may make an interim report to the 2005 General Assembly and shall
 28 make its final report to the 2005 General Assembly, Regular Session 2006.

29
 30 **PART XXIX. DEPARTMENT OF THE STATE TREASURER**

31
 32 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

33 **REESTABLISH STATE INVESTMENT OFFICER POSITION**

34 **SECTION 29.1.** The position of State Investment Officer shall be
 35 reestablished in the Investment Division of the Department of State Treasurer. The State
 36 Treasurer shall fix the compensation of the State Investment Officer in an amount up to
 37 one hundred fifty thousand dollars (\$150,000) per year. The State Treasurer may award
 38 the State Investment Officer an annual performance-based incentive bonus, not to
 39 exceed thirty percent (30%) of salary, based upon the officer's achievement of specific
 40 goals and objectives set by the Treasurer. The State Treasurer shall report the incentive
 41 bonus paid to the Chief Investment Officer to the Joint Legislative Commission on
 42 Governmental Operations by October 1 of each year.

43
 44 **PART XXX. DEPARTMENT OF TRANSPORTATION**

45
 46 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

47 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**
 48 **APPROPRIATIONS**

49 **SECTION 30.2.(a)** The General Assembly authorizes and certifies
 50 anticipated revenues of the Highway Fund as follows:

51	For Fiscal Year 2005-2006	\$1,416.3 million
52	For Fiscal Year 2006-2007	\$1,452.3 million
53	For Fiscal Year 2007-2008	\$1,512.4 million
54	For Fiscal Year 2008-2009	\$1,571.4 million

1 **SECTION 30.2.(b)** The General Assembly authorizes and certifies
2 anticipated revenues of the Highway Trust Fund as follows:

3 For Fiscal Year 2005-2006	\$1,074.9 million
4 For Fiscal Year 2006-2007	\$1,115.4 million
5 For Fiscal Year 2007-2008	\$1,168.9 million
6 For Fiscal Year 2008-2009	\$1,220.2 million

7 **SECTION 30.2.(c)** Section 29.1 of S.L. 2003-284 is repealed.
8

9 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

10 **ENSURE CASH-FLOW FUND AVAILABILITY**

11 **SECTION 30.3.(a)** G.S. 136-176(a1) reads as rewritten:

12 "(a1) The Department shall use two hundred twenty million dollars (\$220,000,000)
13 in fiscal year 2001-2002, two hundred twelve million dollars (\$212,000,000) in fiscal
14 year 2002-2003, and two hundred fifty-five million dollars (\$255,000,000) in fiscal year
15 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

- 16 (1) For primary route pavement preservation. – One hundred seventy
17 million dollars (\$170,000,000) in fiscal year 2001-2002, and one
18 hundred fifty million dollars (\$150,000,000) in each of the fiscal years
19 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for
20 each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is
21 available in that fiscal year, at the discretion of the Secretary of
22 Transportation, for:
- 23 a. Highway improvement projects that further economic growth
24 and development in small urban and rural areas, that are in the
25 Transportation Improvement Program, and that are individually
26 approved by the Board of Transportation; or
- 27 b. Highway improvements that further economic development in
28 the State and that are individually approved by the Board of
29 Transportation.
- 30 (2) For preliminary engineering costs not included in the current year
31 Transportation Improvement Program. – Fifteen million dollars
32 (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and
33 2003-2004.
- 34 (3) For computerized traffic signal systems and signal optimization
35 projects. – Fifteen million dollars (\$15,000,000) in each of the fiscal
36 years 2001-2002, 2002-2003, and 2003-2004.
- 37 (4) For public transportation twenty million dollars (\$20,000,000) in fiscal
38 year 2001-2002, twenty-five million dollars (\$25,000,000) in fiscal
39 year 2002-2003, and seventy-five million dollars (\$75,000,000) in
40 fiscal year 2003-2004.
- 41 (5) For small urban construction projects. – Seven million dollars
42 (\$7,000,000) in fiscal year 2002-2003.

43 Funds authorized for use by the Department pursuant to this subsection shall remain
44 available to the Department until expended."

45 **SECTION 30.3.(b)** G.S. 136-176(a3) reads as rewritten:

46 "(a3) The Department may obligate three hundred million dollars (\$300,000,000)
47 in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year
48 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

- 49 (1) Six hundred thirty million dollars (\$630,000,000) for highway system
50 preservation, modernization, and maintenance, including projects to
51 enhance safety, reduce congestion, improve traffic flow, reduce
52 accidents, upgrade pavement widths and shoulders, extend pavement
53 life, improve pavement smoothness, and rehabilitate or replace
54 deficient bridges; and for economic development transportation

1 projects recommended by local officials and approved by the Board of
 2 Transportation.

- 3 (2) Seventy million dollars (\$70,000,000) for regional public transit
 4 systems, rural and urban public transportation system facilities,
 5 regional transportation and air quality initiatives, rail system track
 6 improvements and equipment, and other ferry, bicycle, and pedestrian
 7 improvements. For any project or program listed in this subdivision for
 8 which the Department receives federal funds, use of funds pursuant to
 9 this subdivision shall be limited to matching those funds.

10 Funds authorized for obligation and use by the Department pursuant to this subsection
 11 shall remain available to the Department until expended."

12
 13 Requested by: Senators Soles, Queen, Thomas, Jenkins, Garrou, Dalton, Hagan

14 **VISITOR CENTER FUNDS**

15 **SECTION 30.3A.** G.S. 20-79.7(c)(2) reads as rewritten:

- 16 "(c) Use of Funds in Special Registration Plate Account. –

17
 18 (2) From the funds remaining in the Special Registration Plate Account
 19 after the deductions in accordance with subdivision (1) of this
 20 subsection, there is annually appropriated from the Special
 21 Registration Plate Account the sum of ~~five hundred twenty five~~
 22 ~~thousand dollars (\$525,000)~~ eight hundred thousand dollars
 23 (\$800,000) to provide operating assistance for the Visitor Centers:

- 24 a. on U.S. Highway 17 in Camden County, ~~(\$75,000); (\$100,000);~~
 25 b. on U.S. Highway 17 in Brunswick County,
 26 ~~(\$75,000); (\$100,000);~~
 27 c. on U.S. Highway 441 in Macon County, ~~(\$75,000); (\$100,000);~~
 28 d. in the Town of Boone, Watauga County, ~~(\$75,000); (\$100,000);~~
 29 e. on U.S. Highway 29 in Caswell County, ~~(\$75,000); (\$100,000);~~
 30 f. on U.S. Highway 70 in Carteret County, ~~(\$75,000); (\$100,000);~~
 31 ~~and~~
 32 g. on U.S. Highway 64 in Tyrrell County, ~~(\$75,000); (\$100,000);~~
 33 ~~and~~
 34 h. at the intersection of U.S. Highway 701 and N.C. 904 in
 35 Columbus County, (\$100,000)."

36
 37 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

38 **AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTIONS OF**
 39 **INTRASTATE IMPROVEMENT PROJECTS**

40 **SECTION 30.3B.** G.S. 136-179 reads as rewritten:

41 **"§ 136-179. Projects of Intrastate System funded from Trust Fund.**

42 Funds allocated from the Trust Fund for the Intrastate System may be used only for
 43 the following projects of the Intrastate System:

Route	Improvements	Affected Counties
44 I-40	Widening	Buncombe, Haywood, 45 Guilford, Wake, Durham
46 I-77	Widening	Mecklenburg
47 I-85	Widening	Durham, Orange, Alamance, 48 Guilford, Cabarrus, 49 Mecklenburg, Gaston
50 I-95	Widening	Halifax
51 US-1	Complete 4-laning from 52 Henderson to South 53 Carolina Line 54 (including 6-laning of	Vance, Franklin, 55 Wake, Chatham, Lee, Moore, Richmond

1		Raleigh Beltline)	
2	US-13	Complete 4-laning from	Gates, Hertford,
3		Virginia Line to US-17	Bertie
4	US-17	Complete 4-laning from	Camden, Pasquotank,
5		Virginia Line to South	Perquimans, Chowan,
6		Carolina Line (including	Bertie, Martin,
7		Washington, New Bern,	Beaufort, Craven,
8		and Jacksonville	Jones, Onslow,
9		Bypasses)	Pender, New Hanover,
10			Brunswick
11	US-19/US-19E	Complete 4-laning from	Madison, Yancey,
12		US-23 to NC 194 in	Mitchell, Avery
13		Ingalls	
14	US-19	Complete 4-laning	Cherokee, Macon,
15			Swain
16	US-23	Complete 4-laning and	Madison, Buncombe
17		upgrading existing	
18		4-lanes from Tennessee	
19		Line to I-240	
20	US-23-441	Complete 4-laning from	Macon
21		US-19/US-74 to Georgia	
22		Line	
23	US-52	Complete 4-laning from	Surry, Davidson
24		I-77 to Lexington	
25		(including new I-77	
26		Connector)	
27	US-64	Complete 4-laning from	Edgecombe, Pitt,
28		Raleigh to Coast	Martin, Washington,
29		(including freeway	Tyrrell, Dare
30		construction from I-95	
31		to US-17)	
32	US-64	Complete 4-laning from	Davidson, Randolph,
33		Lexington to Raleigh	Chatham, Wake
34	US-70	Complete 4-laning from	Wake, Johnston,
35		Raleigh to Morehead City	Wayne, Lenoir,
36		(including Clayton,	Craven
37		Goldsboro, Kinston,	
38		Smithfield-Selma, and	
39		Havelock Bypasses	
40		predominately freeways	
41		on predominately new	
42		locations)	
43	US-74	Complete 4-laning from	Mecklenburg, Union,
44		Charlotte to US-17	Richmond, Robeson,
45		(including multilaning	Columbus
46		of Independence Blvd. in	
47		Charlotte, and Bypasses	
48		of Monroe, Rockingham,	
49		and Hamlet)	
50	US-74	Complete 4-laning from	Polk, Rutherford <u>Rutherford,</u>
51		I-26 to I-85 (including	<u>and Cleveland</u>
52		<u>Shelby Bypass)</u>	
53	US-158	Complete 4-laning	Forsyth, Guilford,
54		from Winston-Salem	Rockingham, Caswell,
55		to Whalebone	Person, Granville,

1		Vance, Warren,
2		Halifax,
3		Northampton, Gates,
4		Hertford,
5		Pasquotank, Camden,
6		Currituck, Dare
7		Currituck
8		New bridge over
9	US-221	Currituck Sound
10		Complete 4-laning from
11		Linville to South
12	US-220	Carolina
13		Complete 4-laning from
14	US-220/NC-68	I-40 to US-1
15		Complete 4-laning from
16	US-264	Virginia Line to I-40
17		Complete 4-laning from
18		US-64 to Washington
19		(including Wilson and
20		Greenville Bypasses)
21		(including freeway
22		construction from I-95
23	US-321	to Greenville)
24		Complete 4-laning from
25		Boone to South Carolina
26	US-421	Line
27		Complete 4-laning from
28	US-421	Tennessee Line to I-40
29		Complete 4-laning from
30		Greensboro to Sanford
31		(including Bypass of
32	NC-24	Sanford)
33		Complete 4-laning from
34		Charlotte to Morehead
35		City
36		Mecklenburg,
37		Cabarrus, Stanly,
38	NC-87	Montgomery, Moore,
39		Harnett, Cumberland,
40		Sampson, Duplin,
41	NC-105	Onslow, Carteret
42		Lee, Harnett,
43	NC-168	Cumberland, Bladen,
44		Columbus
45		Watauga, Avery
46	NC-194	Complete 4-laning from
47		US-19E to US-221"
48		Avery

Requested by: Senators Hoyle, Garrou, Dalton, Hagan

URBAN LOOPS

SECTION 30.3C. G.S. 136-180(a) reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

54		Affected
55	Loop	Counties
	Description	

1			
2	Asheville Western Loop	Multilane facility on new	Buncombe
3		location from I-26 west of	
4		Asheville to US-19/23 north	
5		of Asheville for the purpose	
6		of connecting these roads.	
7		The funds may be used to	
8		improve existing corridors.	
9	Charlotte Outer Loop	Multilane facility on new	Mecklenburg
10		location encircling City of	
11		Charlotte	
12	Durham Northern Loop	The projects listed below	Durham, Wake
13		are eligible for funding	
14		under this section as part of	
15		the Durham Northern Loop.	
16		The priorities for planning	
17		and constructing these projects	
18		will be established by mutual	
19		agreement of the Metropolitan	
20		Planning Organization (MPO)	
21		and the Department of	
22		Transportation through the	
23		federally mandated	
24		Transportation Improvement	
25		Program development process.	
26		The cross sections for these	
27		projects will be established	
28		by mutual agreement of the	
29		MPO and the Department of	
30		Transportation through the	
31		State and federal environmental	
32		review process. (1) East end	
33		connector, from N.C. 147 to	
34		U.S. 70 East. (2) U.S. 70, from	
35		Lynn Rd. to the Northern	
36		Durham Parkway. (3) I-85,	
37		from U.S. 70 to Red Mill Rd.	
38		(4) Northern Durham Parkway,	
39		Section B, from Old Oxford	
40		Rd. to I-85. (5) Northern	
41		Durham Parkway, Section A,	
42		from I-85 to I-540. (6)	
43		Northern Durham Parkway,	
44		Section C, from Old Oxford	
45		Rd. to Roxboro Rd. (7)	
46		Roxboro Rd. from Duke St.	
47		to Goodwin Rd.	
48	Fayetteville	Multilane facility on new	Cumberland
49	Western Outer Loop	location from US 401 north	
50		of Fayetteville to I-95	
51		south of Hope Mills	
52	<u>Gastonia Loop</u>	<u>Multilane facility, known as</u>	<u>Gaston, Mecklenburg</u>
53		<u>the Garden Parkway, on a</u>	
54		<u>new location beginning at</u>	
55		<u>I-485, extending west across</u>	

1		<u>southern Gaston County to</u>	
2		<u>I-85, and continuing north to</u>	
3		<u>US 321</u>	
4	Greensboro Loop	Multilane facility on new	Guilford
5		location encircling City of	
6		Greensboro including	
7		interchanges with Cone	
8		Boulevard Extension and	
9		Lewis-Fleming Road	
10		Extension	
11	Greenville Loop	Multilane extension of the	Pitt
12		Greenville Loop from	
13		US 264 west of Greenville	
14		to NC-11 south of Winterville	
15	Raleigh Outer Loop	Multilane facility on new	Wake Wake, Durham,
16		location from NC 55 southwest	Johnston
17		of Cary northerly to US 64	
18		in eastern Wake County	
19		<u>encircling City of Raleigh</u>	
20	Wilmington Bypass	Multilane facility on new	New Hanover
21		location from US-17 northeast	
22		of Wilmington to US 421	
23		in southern Wilmington,	
24		including the Blue Clay	
25		Road interchange	
26	Winston-Salem Northbelt	Multilane facility on new	Forsyth
27		location from I-40 west of	
28		Winston-Salem northerly to	
29		US 311/Future I-74 in eastern	
30		Forsyth County"	

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

SMALL URBAN CONTINGENCY FUNDS

SECTION 30.3D.(a) Of the funds appropriated in this act to the Department of Transportation:

- (1) Twenty-eight million dollars (\$28,000,000) shall be allocated in fiscal year 2004-2005 for small urban construction projects reviewed and approved by the division engineer and the member of the Board of Transportation representing the division in which the project is to be constructed. These funds shall be allocated equally among the 14 highway divisions for the small urban construction program for small construction projects that are located within the area covered by a two-mile radius of the municipal corporate limits.
- (2) Fifteen million dollars (\$15,000,000) in fiscal year 2004-2005 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be reviewed and approved by the member of the Board of Transportation representing the division in which the project is to be constructed.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

1 The Department of Transportation shall report to the members of the General
2 Assembly on projects funded pursuant to this section in each member's district prior to
3 the Board of Transportation's action. The Department shall make a quarterly
4 comprehensive report on the use of these funds to the Joint Legislative Transportation
5 Oversight Committee and the Fiscal Research Division.

6 **SECTION 30.3D.(b)** Section 29.2 of S.L. 2003-284 is repealed.

7
8 Requested by: Senators Albertson, Jenkins, Garrou, Dalton, Hagan

9 **ANNUAL OVERWIDTH VEHICLE MOVEMENT PERMITS AND ESCORT**
10 **DRIVER TRAINING FOR AGRICULTURAL VEHICLES**

11 **SECTION 30.3E.(a)** G.S. 20-119 is amended by adding a new subsection to
12 read:

13 "(g) The Department of Transportation shall issue annual overwidth permits for
14 vehicles carrying agricultural equipment or machinery from the dealer to the farm or
15 from the farm to the dealer that do not exceed 14 feet in width. These permits shall be
16 valid for unlimited movement without escorts on all State highways where the
17 overwidth vehicles do not exceed posted bridge and load limits."

18 **SECTION 30.3E.(b)** G.S. 20-119(f) reads as rewritten:

19 "(f) The Department of Transportation shall issue rules to establish an escort
20 driver training and certification program for escort vehicles accompanying
21 oversize/overweight loads. Any driver operating a vehicle escorting an
22 oversize/overweight load shall meet any training requirements and obtain certification
23 under the rules issued pursuant to this subsection. These rules may provide for
24 reciprocity with other states having similar escort certification programs. Certification
25 credentials for the driver of an escort vehicle shall be carried in the vehicle and be
26 readily available for inspection by law enforcement personnel. The escort and training
27 certification requirements of this subsection shall not apply to the transportation of
28 agricultural machinery until October 1, 2004. The Department of Transportation shall
29 develop and implement an in-house training program for agricultural machinery escorts
30 by September 1, 2004."

31
32 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

33 **CURRITUCK COUNTY AIRPORT LAND CONVEYANCE**

34 **SECTION 30.3F.** The State of North Carolina shall convey to Currituck
35 County, for consideration of one dollar (\$1.00), title to the land on which the Currituck
36 County Airport is situated.

37
38 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

39 **AIRPORT GRANTS FOR IMMINENT SAFETY THREATS**

40 **SECTION 30.3G.** Of the funds appropriated to the Department of
41 Transportation for Airport Grants, the Department shall give priority in making grants
42 to facilities facing imminent safety threats.

43
44 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

45 **DEPARTMENT OF TRANSPORTATION SHALL PAVE AREAS IN NORTH**
46 **CAROLINA INDIAN CULTURAL CENTER**

47 **SECTION 30.5.** The Department of Transportation shall pave the
48 appropriate areas inside the North Carolina Indian Cultural Center.

49
50 Requested by: Senators Dannelly, Jenkins, Garrou, Dalton, Hagan

51 **PASSENGER VEHICLES TOWING OTHER VEHICLES TO KEEP RIGHT**

52 **SECTION 30.6.(a)** Chapter 20 of the General Statutes is amended by adding
53 a new section to read:

54 **"§ 20-147.1. Passenger vehicle towing other vehicles to keep right.**

1 Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)g. is
 2 towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle
 3 shall at all times cause that vehicle to travel on the right half of the highway, or if the
 4 highway is divided into two or more lanes in the right-most lane of travel, unless that
 5 lane is obstructed or impassable. These towing vehicles shall also comply with all
 6 signage for vehicles of three or more axles erected pursuant to G.S. 20-146(d)(3)."

7 **SECTION 30.6.(b)** This Section becomes effective December 1, 2004, and
 8 applies to offenses committed on or after that date.
 9

10 Requested by: Senators Dalton, Garrou, Hagan

11 **SENATOR OLLIE HARRIS HIGHWAY AND KINGS MOUNTAIN HISTORIC**
 12 **DISTRICT SIGNAGE**

13 **SECTION 30.7.(a)** The Department of Transportation shall correct the
 14 signage designating the Senator Ollie Harris Highway.

15 **SECTION 30.7.(b)** The Department of Transportation shall erect
 16 appropriate informational signage on Interstate Highway 85 and US Highway 74
 17 informing travelers of the Historic District in the City of Kings Mountain. These
 18 informational signs shall be designed by the Department in conjunction with
 19 governmental agencies of the City of Kings Mountain and Cleveland County.
 20

21 Requested by: Senators Nesbitt, Jenkins, Garrou, Dalton, Hagan

22 **WESTERN NORTH CAROLINA PASSENGER RAIL SERVICE PROPERTY**
 23 **ACQUISITION**

24 **SECTION 30.8.** The Rail Division may use up to one million sixty-six
 25 thousand dollars (\$1,066,000) of the funds placed in the Western North Carolina
 26 Reserve created by Section 25.13 of S.L. 2000-67 for property acquisition and
 27 infrastructure improvements in the Biltmore Village area of Asheville to develop a
 28 terminus for western North Carolina passenger rail service.
 29

30 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

31 **FUNDS FROM DEPARTMENT OF REVENUE'S FUEL TAX ACTION PLAN**

32 **SECTION 30.9.** Any funds received by the Department of Transportation as
 33 a result of the Department of Revenue's Fuel Tax Action Plan in an amount greater than
 34 the costs of administering the program during the 2004-2005 fiscal year shall be
 35 distributed equally among the 14 Highway Divisions. One-half of the funds distributed
 36 to each Highway Division shall be used for contract resurfacing and the remaining
 37 one-half of the funds distributed to each Highway Division shall be used for highway
 38 maintenance.

39 Before distributing these funds to the Highway Divisions, the Department of
 40 Transportation and the Department of Revenue shall report to the Joint Legislative
 41 Transportation Oversight Committee and to the Joint Legislative Commission on
 42 Governmental Operations on the implementation of the Fuel Tax Action Plan and the
 43 additional revenues that the Department of Revenue can demonstrate are generated by
 44 this program.
 45

46 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

47 **LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP**
 48 **FUND SOLVENCY**

49 **SECTION 30.10.(a)** G.S. 105-449.125 reads as rewritten:

50 **"§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

51 The Secretary shall allocate the amount of revenue collected under this Article from
 52 an excise tax of ~~one half cent (1/2¢)~~ one and one-tenth cent (1.1¢) a gallon to the
 53 following funds and accounts in the fraction indicated:

<u>Fund or Account</u>	<u>Amount</u>
Commercial Leaking Petroleum	

1 Underground Storage Tank Cleanup Fund ~~Nineteen thirty seconds five-sevenths~~
 2 Noncommercial Leaking Petroleum
 3 Underground Storage Tank Cleanup Fund ~~Three thirty seconds one-seventh~~
 4 Water and Air Quality Account ~~Five sixteenths one-seventh.~~

5 The Secretary shall allocate seventy-five percent (75%) of the remaining excise tax
 6 revenue collected under this Article to the Highway Fund and shall allocate twenty-five
 7 percent (25%) to the Highway Trust Fund.

8 The Secretary shall charge a proportionate share of a refund allowed under this
 9 Article to each fund or account to which revenue collected under this Article is credited.
 10 The Secretary shall credit revenue or charge refunds to the appropriate funds or
 11 accounts on a monthly ~~basis-basis~~ except that the Secretary shall credit nineteen million
 12 dollars (\$19,000,000) to the appropriate funds in July 2004 and shall adjust payments in
 13 the remaining months of the 2004-2005 fiscal year to ensure that the fractional
 14 distributions required by this section are met for the fiscal year."

15 **SECTION 30.10.(b)** Section 10 of S.L. 2003-352 reads as rewritten:

16 **"SECTION 10.** The definitions set out in G.S. 143-212 and G.S. 143-215.94A apply
 17 to this section. The rights and obligations of an owner, an operator, or a landowner to
 18 whom either G.S. 143-215.94E(b1) applies or G.S. 143-215.94E(c1) apply who is
 19 eligible to have costs paid or reimbursed under G.S. 143-215.94B or G.S. 143-215.94D
 20 shall be governed by G.S. 143-215.94E as modified by this section. The Department
 21 shall establish the degree of risk to human health and the environment posed by a
 22 discharge or release of petroleum from a commercial underground storage tank and
 23 shall determine a schedule for further assessment and cleanup that is based on the
 24 degree of risk to human health and the environment posed by the discharge or release.
 25 release and that gives priority to the assessment and cleanup of discharges and releases
 26 that pose the greatest risk. If any of the costs of assessment and cleanup of the discharge
 27 or release from a commercial underground storage tank are eligible to be paid from the
 28 Commercial Fund, the Department shall also consider the availability of funds in the
 29 Commercial Fund and the order in which the discharge or release was reported in
 30 determining the schedule. The Department shall establish the degree of risk to human
 31 health and the environment posed by a discharge or release of petroleum from a
 32 noncommercial underground storage tank and shall determine a schedule for further
 33 assessment and cleanup that is based on the degree of risk to human health and the
 34 environment posed by the discharge or release and that gives priority to the assessment
 35 and cleanup of discharges and releases that pose the greatest risk. If any of the costs of
 36 assessment or cleanup of the discharge or release from a noncommercial underground
 37 storage tank are eligible to be paid from the Noncommercial Fund, the Department shall
 38 also consider the availability of funds in the Noncommercial Fund and the order in
 39 which the discharge or release was reported in determining the schedule. The
 40 Department may revise the schedule that applies-schedules that apply to the assessment
 41 and cleanup of any discharge or release at any time based on its reassessment of any of
 42 the foregoing factors. The lack of availability of funds in the Commercial Fund or the
 43 Noncommercial Fund shall not relieve an owner or operator of responsibility to
 44 immediately undertake to collect and remove the discharge or release or to conduct any
 45 assessment or cleanup ordered by the Department or be a defense against any violations
 46 and penalties issued to the owner or operator for failure to conduct required assessment
 47 or cleanup. If the owner or operator takes initial steps to collect and remove the
 48 discharge or release as required by the Department and completes initial assessment
 49 required to determine degree of risk, the owner or operator shall not be subject to any
 50 violation or penalty for any failure to proceed with further assessment or cleanup under
 51 G.S. 143-215.84 or G.S. 143-215.94E before the owner or operator is authorized to
 52 proceed with further assessment or cleanup pursuant to the schedule set by the
 53 Department. Once the Department has determined a schedule for the assessment and
 54 cleanup of a discharge or release from a commercial underground storage tank or a
 55 noncommercial underground storage tank, an owner, operator, or other person

1 responsible for the assessment and cleanup is not eligible to have the costs of the
2 assessment or cleanup paid or reimbursed from the Commercial Fund or the
3 Noncommercial Fund until such time as further assessment or cleanup is authorized by
4 the Department pursuant to the schedule. An owner, operator, or other person may
5 undertake further assessment or cleanup before receiving authorization from the
6 Department. An owner, operator, or other person who undertakes further assessment or
7 cleanup before receiving authorization from the Department shall be reimbursed only
8 after the Department has paid or reimbursed the costs for all assessments and cleanups
9 that the Department has authorized."

10 **SECTION 30.10.(c)** The Environmental Review Commission shall study the
11 desirability and feasibility of altering or eliminating the role of the State of North
12 Carolina and the Department of Environment and Natural Resources in the
13 implementation of Part 2A of Article 21A of Chapter 143 of the General Statutes. In
14 conducting this study, the Commission shall consider:

- 15 (1) The requirements of applicable federal law.
- 16 (2) What role the State should play in assisting owners and operators of
17 underground storage tanks in meeting applicable financial
18 responsibility requirements and the availability and adequacy of
19 private insurance for that purpose.
- 20 (3) The adequacy of current and projected revenue available to the
21 Commercial Leaking Petroleum Underground Storage Tank Cleanup
22 Fund and the Noncommercial Leaking Petroleum Underground
23 Storage Tank Cleanup Fund under existing law to achieve the purposes
24 for which those funds were established.
- 25 (4) The desirability and feasibility of privatizing the administration of Part
26 2A of Article 21A of Chapter 143 of the General Statutes by
27 transferring control and direction of the Commercial Fund and the
28 Noncommercial Fund to a private entity or, in the alternative, of
29 abolishing or narrowing the purposes for which those funds are used.
- 30 (5) What role the State should play in the cleanup of discharges and
31 releases from petroleum underground storage tanks when no owner or
32 operator can be identified or located or when the owner or operator
33 fails to proceed with assessment or cleanup due to insolvency,
34 inadequate resources, or other reasons.
- 35 (6) The extent to which current regulatory oversight and inspection of
36 underground storage tanks, including enforcement, under Part 2B of
37 Article 21A of Chapter 143 of the General Statutes is adequate and
38 effective in preventing discharges and releases of petroleum from
39 underground storage tanks.
- 40 (7) The impact of privatization and of any other options identified during
41 the course of the study on the solvency of the Commercial Fund and
42 the Noncommercial Fund.
- 43 (8) The impact of privatization and of any other options identified during
44 the course of the study, including abolishing the Commercial Fund or
45 the Noncommercial Fund or narrowing the purposes for which those
46 funds are used, on the cleanup of discharges and releases of petroleum
47 to standards established by federal or State law, the long-term public
48 health and safety, and protection of the environment.

49 **SECTION 30.10.(d)** The Environmental Review Commission shall report
50 its findings and recommendations as to the matters to be studied pursuant to subsection
51 (c) of this section, including any legislative proposals, to the 2005 General Assembly no
52 later than 31 January 2005.

53 **SECTION 30.10.(e)** Subsection (b) of this section becomes effective 1
54 October 2004. Subsection (a) of this section becomes effective July 1, 2004, and

1 expires on June 30, 2005. Subsections (c), (d), and (e) of this section are effective when
2 this act becomes law.

3
4 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

5 **STORMWATER PILOT PROJECT**

6 **SECTION 30.11.** Of funds available to the Department of Transportation for
7 the Ecosystem Enhancement Program (EEP), two million five hundred thousand dollars
8 (\$2,500,000) shall be used for a stormwater pilot project in Dare County.

9
10 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

11 **STATE DREDGE STUDY BY JOINT LEGISLATIVE TRANSPORTATION**
12 **OVERSIGHT COMMITTEE**

13 **SECTION 30.12.** The Joint Legislative Transportation Oversight Committee
14 shall study the feasibility and cost of constructing and establishing a dredge to be used
15 to clear channels that are within the State and that are not maintained by the Corps of
16 Engineers and to be used for beach renourishment. The Joint Legislative Transportation
17 Oversight Committee may hire an outside consultant in conducting this study.

18
19 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

20 **JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO**
21 **STUDY TRANSPORTATION RELATED DRUG AND ALCOHOL TESTS**

22 **SECTION 30.13.** The Joint Legislative Transportation Oversight Committee
23 shall study the advisability of instituting a requirement for public transit operators and
24 other employers to report to the Division of Motor Vehicles the name of an employee
25 taking a transportation-related drug test or alcohol test and the results when the
26 employee failed the test. The Committee shall also study the advisability of instituting a
27 requirement for the Division to provide the information it collects on those individuals
28 to other employers required by federal law to test transportation-related employees.

29
30 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

31 **DEPARTMENT OF TRANSPORTATION PROJECT DELIVERY STUDY**
32 **IMPLEMENTATION**

33 **SECTION 30.14.** The Department of Transportation shall review and
34 implement the applicable provisions of the Joint Legislative Transportation Oversight
35 Committee Highway Construction Project Delivery Study, dated June 2004. The
36 Department shall report quarterly to the Joint Legislative Transportation Oversight
37 Committee, beginning October 15, 2004, and continuing until October 15, 2006, on the
38 progress of its implementation of the recommendations of the report.

39
40 **PART XXXI. SALARIES AND EMPLOYEE BENEFITS**

41
42 Requested by: Senators Garrou, Dalton, Hagan

43 **GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES**

44 **SECTION 31.1.(a)** Section 30.1(a) of S.L. 2003-284 reads as rewritten:

45 "**SECTION 30.1.(a)** For the 2003-2004 and 2004-2005 fiscal years, fiscal year, the
46 salary of the Governor shall remain the amount set by G.S. 147-11(a)."

47 **SECTION 31.1.(b)** Effective July 1, 2004, G.S. 147-11(a) reads as
48 rewritten:

49 "(a) The salary of the Governor shall be ~~one hundred eighteen thousand four~~
50 ~~hundred thirty dollars (\$118,430)~~ one hundred twenty-one thousand six hundred
51 eighty-seven dollars (\$121,687) annually, payable monthly."

52 **SECTION 31.1.(c)** Section 30.1(b) of S.L. 2003-284 reads as rewritten:

53 "**SECTION 30.1.(b)** Effective ~~July 1, 2003,~~ July 1, 2004, the annual salaries for the
54 members of the Council of State, payable monthly, for the ~~2003-2004 and 2004-2005~~
55 fiscal years-year are:

	Annual Salary
1 Council of State	
2 Lieutenant Governor	\$104,523 <u>107,397</u>
3 Attorney General	104,523 <u>107,397</u>
4 Secretary of State	104,523 <u>107,397</u>
5 State Treasurer	104,523 <u>107,397</u>
6 State Auditor	104,523 <u>107,397</u>
7 Superintendent of Public Instruction	104,523 <u>107,397</u>
8 Agriculture Commissioner	104,523 <u>107,397</u>
9 Insurance Commissioner	104,523 <u>107,397</u>
10 Labor Commissioner	104,523 <u>107,397</u> "

11
12 Requested by: Senators Garrou, Dalton, Hagan

13 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

14 **SECTION 31.2.** Section 30.2 of S.L. 2003-284 reads as rewritten:

15 **"SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual salaries,
16 payable monthly, for the nonelected heads of the principal State departments for the
17 ~~2003-2004 and 2004-2005~~ fiscal ~~years~~ year are:

	Annual Salary
18 Nonelected Department Heads	
19 Secretary of Administration	\$102,119 <u>104,927</u>
20 Secretary of Correction	102,119 <u>104,927</u>
21 Secretary of Crime Control and Public Safety	102,119 <u>104,927</u>
22 Secretary of Cultural Resources	102,119 <u>104,927</u>
23 Secretary of Commerce	102,119 <u>104,927</u>
24 Secretary of Environment and Natural Resources	102,119 <u>104,927</u>
25 Secretary of Health and Human Services	102,119 <u>104,927</u>
26 Secretary of Juvenile Justice and Delinquency Prevention	102,119 <u>104,927</u>
27 Secretary of Revenue	102,119 <u>104,927</u>
28 Secretary of Transportation	102,119 <u>104,927</u> "

29
30 Requested by: Senators Garrou, Dalton, Hagan

31 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

32 **SECTION 31.3.** Section 30.3 of S.L. 2003-284 reads as rewritten:

33 **"SECTION 30.3.** The annual salaries, payable monthly, for the ~~2003-2004 and~~
34 ~~2004-2005~~ fiscal ~~years~~ year for the following executive branch officials are:

	Annual Salary
35 Executive Branch Officials	
36 Chairman, Alcoholic Beverage Control Commission	\$92,946 <u>\$95,502</u>
37 State Controller	130,078 <u>133,655</u>
38 Commissioner of Motor Vehicles	92,946 <u>95,502</u>
39 Commissioner of Banks	104,523 <u>107,397</u>
40 Chairman, Employment Security Commission	129,913 <u>133,486</u>
41 State Personnel Director	102,119 <u>104,927</u>
42 Chairman, Parole Commission	84,871 <u>87,205</u>
43 Members of the Parole Commission	78,356 <u>80,511</u>
44 Chairman, Utilities Commission	116,405 <u>119,606</u>
45 Members of the Utilities Commission	104,523 <u>107,397</u>
46 Executive Director, Agency for Public Telecommunications	78,356 <u>80,511</u>
47 Director, Museum of Art	95,240 <u>97,859</u>
48 Executive Director, North Carolina Agricultural Finance	
49 Authority	90,470 <u>92,958</u>
50 State Chief Information Officer	130,000 <u>133,575</u> "

51
52 Requested by: Senators Garrou, Dalton, Hagan

53 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

54 **SECTION 31.4.** Section 30.4 of S.L. 2003-284 reads as rewritten:

"SECTION 30.4.(a) The annual salaries, payable monthly, for specified judicial branch officials for the ~~2003-2004 and 2004-2005 fiscal years~~ year are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	\$118,430 \$121,687
Associate Justice, Supreme Court	115,336 118,508
Chief Judge, Court of Appeals	112,452 115,544
Judge, Court of Appeals	110,530 113,570
Judge, Senior Regular Resident Superior Court	107,527 110,484
Judge, Superior Court	104,523 107,397
Chief Judge, District Court	94,912 97,522
Judge, District Court	91,909 94,436
Administrative Officer of the Courts	107,527 110,484
Assistant Administrative Officer of the Courts	98,216 100,917

"SECTION 30.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed ~~sixty thousand one hundred ninety one dollars (\$60,191), sixty-one thousand eight hundred forty-six dollars (\$61,846),~~ and the minimum salary of any assistant district attorney or assistant public defender is at least ~~thirty one thousand thirty five dollars (\$31,035), thirty-two thousand thirty-five dollars (\$32,035),~~ effective ~~July 1, 2003,~~ July 1, 2004.

"SECTION 30.4.(c) Permanent, full-time employees of the Judicial Department, whose salaries are not itemized in this Part, shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Effective July 1, 2004, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this Part shall be increased by the greater of one thousand dollars (\$1,000) or two and seventy-five hundredths percent (2.75%).

"SECTION 30.4.(d) The annual salaries in effect for fiscal year 2004-2005 for all permanent part-time employees of the Judicial Department shall be increased on or after July 1, 2004, by pro rata amounts of one thousand dollars (\$1,000) or by two and seventy-five hundredths percent (2.75%), whichever is greater."

Requested by: Senators Garrou, Dalton, Hagan
CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 31.5.(a) Section 30.5 of S.L. 2003-284 reads as rewritten:

"SECTION 30.5. For the ~~2003-2004 and 2004-2005 fiscal years,~~ fiscal year, the compensation of clerks of superior court shall remain as set forth in G.S. 7A-101(a)."

SECTION 31.5.(b) Effective July 1, 2004, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	\$69,911 \$71,834
100,000 to 149,999	78,452 80,609
150,000 to 249,999	86,994 89,386
250,000 and above	95,537 98,164.

The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%

1 150,000 to 249,999 91%
 2 250,000 and above 100%.

3 When a county changes from one population group to another, the salary of the clerk
 4 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 5 salary appropriate for the new population group, except that the salary of an incumbent
 6 clerk shall not be decreased by any change in population group during his continuance
 7 in office."
 8

9 Requested by: Senators Garrou, Dalton, Hagan

10 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

11 **SECTION 31.6.(a)** Section 30.6 of S.L. 2003-284 reads as rewritten:

12 "**SECTION 30.6.** For the 2003-2004 and 2004-2005 fiscal years, fiscal year, the
 13 compensation of assistant and deputy clerks of superior court shall remain as set forth in
 14 G.S. 7A-102(c1), except that there shall be awarded to each clerk not receiving a
 15 statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized
 16 in this Part."

17 **SECTION 31.6.(b)** Effective July 1, 2004, G.S. 7A-102(c1) reads as
 18 rewritten:

19 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 20 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 21 subject to the following minimum and maximum rates:
 22

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$26,515 <u>\$27,515</u>
Maximum	46,464 <u>47,742</u>
Deputy Clerks	Annual Salary
Minimum	\$22,565 <u>\$23,565</u>
Maximum	35,934 <u>36,934.</u> "

31 Requested by: Senators Garrou, Dalton, Hagan

32 **MAGISTRATES' SALARY INCREASES**

33 **SECTION 31.7.(a)** Section 30.7 of S.L. 2003-284 reads as rewritten:

34 "**SECTION 30.7.** For the 2003-2004 and 2004-2005 fiscal years, fiscal year, the
 35 compensation of magistrates shall remain as set forth in G.S. 7A-171.1, except that
 36 there shall be awarded to each magistrate not receiving a statutory step increase a
 37 compensation bonus for the 2003-2004 fiscal year as authorized in this Part."

38 **SECTION 31.7.(b)** Effective July 1, 2004, G.S. 7A-171.1 reads as rewritten:

39 "**§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

40 (a) The Administrative Officer of the Courts, after consultation with the chief
 41 district judge and pursuant to the following provisions, shall set an annual salary for
 42 each magistrate.

- 43 (1) A full-time magistrate shall be paid the annual salary indicated in the
 44 table set out in this subdivision. A full-time magistrate is a magistrate
 45 who is assigned to work an average of not less than 40 hours a week
 46 during the term of office. The Administrative Officer of the Courts
 47 shall designate whether a magistrate is full-time. Initial appointment
 48 shall be at the entry rate. A magistrate's salary shall increase to the
 49 next step every two years on the anniversary of the date the magistrate
 50 was originally appointed for increases to Steps 1 through 3, and every
 51 four years on the anniversary of the date the magistrate was originally
 52 appointed for increases to Steps 4 through 6.
 53

54 **Table of Salaries of Full-Time Magistrates**

1	Step Level	Annual Salary
2	Entry Rate	\$26,889 <u>\$27,889</u>
3	Step 1	29,525 <u>30,525</u>
4	Step 2	32,393 <u>33,393</u>
5	Step 3	35,523 <u>36,523</u>
6	Step 4	38,952 <u>40,023</u>
7	Step 5	42,721 <u>43,896</u>
8	Step 6	46,864 <u>48,153</u>
9		

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$21,325 <u>\$22,325</u>
1 or more but less than 3 years of service	22,389 <u>23,389</u>

3 or more but less than 5 years of service ~~24,530.~~ 25,530.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

- (2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

- (3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).
- (4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Senators Garrou, Dalton, Hagan
GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 31.8.(a) Section 30.8 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.8.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of General Assembly principal clerks shall remain as set forth in G.S. 120-37, except that there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part."

SECTION 31.8.(b) Effective July 1, 2004, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty eight thousand three hundred six dollars (\$88,306)~~ ninety thousand seven hundred thirty-four dollars (\$90,734) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Senators Garrou, Dalton, Hagan
SERGEANT-AT-ARMS AND READING CLERKS

SECTION 31.9.(a) Section 30.9 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.9.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of General Assembly sergeant-at-arms and reading clerks shall remain as set forth in G.S. 120-37."

1 **SECTION 31.9.(b)** Effective July 1, 2004, G.S. 120-37(b) reads as
2 rewritten:

3 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
4 salary of ~~two hundred ninety two dollars (\$292.00)~~ three hundred eleven dollars
5 (\$311.00) per week plus subsistence at the same daily rate provided for members of the
6 General Assembly, plus mileage at the rate provided for members of the General
7 Assembly for one round trip only from their homes to Raleigh and return. The
8 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
9 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
10 be authorized by the Legislative Services Commission. The reading clerks shall serve
11 during sessions only."
12

13 Requested by: Senators Garrou, Dalton, Hagan

14 **LEGISLATIVE EMPLOYEES**

15 **SECTION 31.10.** Effective July 1, 2004, the Legislative Services Officer
16 shall increase the salaries of nonelected employees of the General Assembly in effect
17 for fiscal year 2003-2004 by the greater of one thousand dollars (\$1,000) or two and
18 seventy-five hundredths percent (2.75%). Nothing in this act limits any of the provisions
19 of G.S. 120-32.
20

21 Requested by: Senators Garrou, Dalton, Hagan

22 **COMMUNITY COLLEGE PERSONNEL**

23 **SECTION 31.11.** The Director of the Budget shall transfer to the North
24 Carolina Community College System Office from the Reserve for Compensation
25 Increases created in this act for fiscal year 2004-2005 funds necessary to provide an
26 annual salary increase of the greater of one thousand dollars (\$1,000) or two and
27 seventy-five hundredths percent (2.75%), including funds for the employer's retirement
28 and social security contributions, commencing July 1, 2004, for all permanent full-time
29 community college institutional personnel supported by State funds.
30

31 Requested by: Senators Garrou, Dalton, Hagan

32 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

33 **SECTION 31.12.(a)** The Director of the Budget shall transfer to the Board
34 of Governors of The University of North Carolina sufficient funds from the Reserve for
35 Compensation Increases, created in this act for fiscal year 2004-2005, to provide an
36 annual salary increase of the greater of one thousand dollars (\$1,000) or two and
37 seventy-five hundredths percent (2.75%), including funds for the employer's retirement
38 and social security contributions, commencing July 1, 2004, for all employees of The
39 University of North Carolina, as well as employees other than teachers of the North
40 Carolina School of Science and Mathematics, supported by State funds and whose
41 salaries are exempt from the State Personnel Act (EPA). The percentage annual salary
42 increase authorized by this section shall be made on an aggregated average basis, and
43 these funds shall be allocated to individuals according to the rules adopted by Board of
44 Governors or the Board of Trustees of the North Carolina School of Science and
45 Mathematics, as appropriate, and may not be used for any purpose other than for salary
46 increases and employer contributions as provided by this section.
47

48 **SECTION 31.12.(b)** The Director of the Budget shall transfer to the Board
49 of Governors of The University of North Carolina sufficient funds from the Reserve for
50 Compensation Increases, created in this act for fiscal year 2004-2005, to provide an
51 average annual salary increase of two and seventy-five hundredths percent (2.75%),
52 including funds for the employer's retirement and social security contributions,
53 commencing July 1, 2003, for all teaching employees of the North Carolina School of
54 Science and Mathematics supported by State funds and whose salaries are exempt from
55 the State Personnel Act (EPA).

SECTION 31.12.(c) Section 30.12(b) of S.L. 2003-284 reads as rewritten:

1 **"SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board of
2 Governors of The University of North Carolina sufficient funds from the Reserve for
3 Compensation Increases, created in this act for fiscal ~~years~~ year 2003-2004 and
4 ~~2004-2005~~, to provide an average annual salary increase of one and eighty-one
5 hundredths percent (1.81%), including funds for the employer's retirement and social
6 security contributions, commencing July 1, 2003, for all teaching employees of the
7 North Carolina School of Science and Mathematics supported by State funds and whose
8 salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated
9 to individuals according to the rules adopted by the Board of Trustees of the North
10 Carolina School of Science and Mathematics and may not be used for any purpose other
11 than for salary increases and necessary employer contributions provided by this
12 section."
13

14 Requested by: Senators Garrou, Dalton, Hagan

15 **MOST STATE EMPLOYEES**

16 **SECTION 31.13.** Section 30.13 of S.L. 2003-284 reads as rewritten:

17 **"SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent
18 full-time State employees whose salaries are set in accordance with the State Personnel
19 Act, and who are paid from the General Fund or the Highway Fund shall remain in
20 effect for the 2003-2004 ~~and 2004-2005 fiscal years~~, fiscal year, and there shall be
21 awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.
22 Effective July 1, 2004, the annual salaries of all permanent full-time State employees
23 whose salaries are set in accordance with the State Personnel Act, and who are paid
24 from the General Fund or the Highway Fund, shall be increased by the greater of one
25 thousand dollars (\$1,000) or two and seventy-five hundredths percent (2.75%), unless
26 otherwise provided by this act.

27 **"SECTION 30.13.(b)** Except as otherwise provided in this act, the compensation of
28 permanent full-time State officials and persons in exempt positions that are
29 recommended by the Governor or the Governor and the Advisory Budget Commission
30 and set by the General Assembly shall remain in effect, and there shall be awarded a
31 compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Effective
32 July 1, 2004, the annual compensation of permanent full-time State officials and persons
33 in exempt positions that are recommended by the Governor or the Governor and the
34 Advisory Budget Commission and set by the General Assembly shall be increased by
35 the greater of one thousand dollars (\$1,000) or two and seventy-five hundredths percent
36 (2.75%), unless otherwise provided by this act.

37 **"SECTION 30.13.(c)** ~~The~~ For the 2003-2004 fiscal year, the salaries of all
38 permanent part-time State employees shall remain in effect, and there shall be awarded
39 a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. The
40 salaries in effect for fiscal year 2004-2005 for all permanent part-time State employees
41 shall be increased on or after July 1, 2004, by pro rata amounts of one thousand dollars
42 (\$1,000) or two and seventy-five hundredths percent (2.75%), whichever is greater.

43 **"SECTION 30.13.(d)** The Director of the Budget may allocate out of special
44 operating funds or from other sources of the employing agency, except tax revenues,
45 sufficient funds for salaries in accordance with subsection (a), (b), or (c) of this section
46 including funds for the employer's retirement and social security contributions, for the
47 permanent full-time and part-time employees of the agency, provided the employing
48 agency elects to make available the necessary funds.

49 **"SECTION 30.13.(e)** Within regular Executive Budget Act procedures as limited
50 by this act, all State agencies and departments may increase on an equitable basis the
51 rate of pay of temporary and permanent hourly State employees, subject to availability
52 of funds in the particular agency or department, by pro rata amounts of the greater of the
53 one thousand dollar (\$1,000) or two and seventy-five hundredths percent (2.75%)
54 increase provided for permanent full-time employees covered by the provisions of
55 subsection (a) of this section, commencing July 1, 2004."

1
2 Requested by: Senators Nesbitt, Malone, Garrou, Dalton, Hagan

3 **ALL STATE-SUPPORTED PERSONNEL**

4 **SECTION 31.14.** Section 30.14 of S.L. 2003-284 reads as rewritten:

5 "SECTION 30.14.(a) Salaries and related benefits for positions that are funded
6 partially from the General Fund or Highway Fund and partially from sources other than
7 the General Fund or Highway Fund shall remain in effect and be paid from the General
8 Fund or Highway Fund appropriation only to the extent of the proportionate part of the
9 salaries paid from the General Fund or Highway Fund.

10 "SECTION 30.14.(a1) Effective July 1, 2004, salaries and related benefits for
11 positions that are funded partially from the General Fund or Highway Fund and partially
12 from sources other than the General Fund or Highway Fund shall be increased from the
13 General Fund or Highway Fund appropriation only to the extent of the proportionate
14 part of the salaries paid from the General Fund or Highway Fund.

15 "SECTION 30.14.(b) The salaries authorized under this act do not affect the status
16 of eligibility for salary increments for which employees may be eligible unless
17 otherwise required by this act.

18 "SECTION 30.14.(c) The compensation bonuses do not apply to persons separated
19 from State service due to resignation, dismissal, reduction in force, death, or retirement,
20 or whose last workday is prior to October 1, 2003. The salary increases provided by this
21 Part are to be effective July 1, 2004, and do not apply to persons separated from State
22 service due to resignation, dismissal, reduction-in-force, death, or retirement, whose last
23 workday is prior to July 1, 2004. This subsection shall apply to all employees, subject to
24 or exempt from the State Personnel Act, paid from State funds, including public
25 schools, community colleges, and The University of North Carolina.

26 "SECTION 30.14.(d) The Director of the Budget shall transfer from the Reserve
27 for Compensation Increases in this act for fiscal year 2003-2004 and fiscal year
28 2004-2005 all funds necessary for the compensation increases provided by this act,
29 including funds for the employer's retirement and social security contributions.

30 "SECTION 30.14.(e) Nothing in this act authorizes the transfer of funds between
31 the General Fund and the Highway Fund for salary increases."
32

33 Requested by: Senators Garrou, Dalton, Hagan

34 **HOUSING FINANCE DIRECTOR**

35 **SECTION 31.15.(a)** G.S. 122A-4(f) reads as rewritten:

36 "(f) The Governor shall designate from among the members of the Board a
37 chairman and a vice-chairman. The terms of the chairman and vice-chairman shall
38 extend to the earlier of either two years or the date of expiration of their then current
39 terms as members of the Board of Directors of the Agency. The Agency shall exercise
40 all of its prescribed statutory powers independently of any principal State Department
41 except as described in this Chapter. The Executive Director of the Agency shall be
42 appointed by the Board of Directors, subject to approval by the Governor. All staff and
43 employees of the Agency shall be appointed by the Executive Director, subject to
44 approval by the Board of Directors; shall be eligible for participation in the State
45 Employees' Retirement System; and shall be exempt from the provisions of the State
46 Personnel Act. All employees other than the Executive Director shall be compensated in
47 accordance with the salary schedules adopted pursuant to the State Personnel Act. The
48 salary of the Executive Director shall be fixed by the ~~General Assembly in the Current~~
49 ~~Operations Appropriations Act.~~ Board of Directors. The salary of the Executive
50 Director and all staff and employees of the Agency shall not be subject to any
51 limitations imposed pursuant to any salary schedule adopted pursuant to the terms of the
52 State Personnel Act. The Board of Directors shall, subject to the approval of the
53 Governor, elect and prescribe the duties of any other officers it finds necessary or
54 advisable, and the ~~General Assembly~~ Board of Directors shall fix the compensation of
55 ~~these officers in the Current Operations Appropriations Act.~~ officers. The Board of

1 Directors shall report to the Joint Legislative Commission on Governmental Operations
2 on the amount of annual compensation fixed for the Executive Director pursuant to this
3 section, including subsequent changes in compensation. The books and records of the
4 Agency shall be maintained by the Agency and shall be subject to periodic review and
5 audit by the State.

6 No part of the revenues or assets of the Agency shall inure to the benefit of or be
7 distributable to its members or officers or other private persons. The members of the
8 Agency shall receive no compensation for their services but shall be entitled to receive,
9 from funds of the Agency, for attendance at meetings of the Agency or any committee
10 thereof and for other services for the Agency reimbursement for such actual expenses as
11 may be incurred for travel and subsistence in the performance of official duties and such
12 per diem as is allowed by law for members of other State boards, commissions and
13 committees.

14 The Executive Director shall administer, manage and direct the affairs and business
15 of the Agency, subject to the policies, control and direction of the members of the
16 Agency Board of Directors. The Secretary of the Agency shall keep a record of the
17 proceedings of the Agency and shall be custodian of all books, documents and papers
18 filed with the Agency, the minute book or journal of the Agency and its official seal.
19 The Secretary may have copies made of all minutes and other records and documents of
20 the Agency and may give certificates under the official seal of the Agency to the effect
21 that such copies are true copies, and all persons dealing with the Agency may rely upon
22 such certificates. Seven members of the Board of Directors of the Agency shall
23 constitute a quorum and the affirmative vote of a majority of the members present at a
24 meeting of the Board of Directors duly called and held shall be necessary for any action
25 taken by the Board of Directors of the Agency, except adjournment; provided, however,
26 that the Board of Directors may appoint an executive committee to act in behalf of said
27 Board during the period between regular meetings of said Board, and said committee
28 shall have full power to act upon the vote of a majority of its members. No vacancy in
29 the membership of the Agency shall impair the rights of a quorum to exercise all the
30 rights and to perform all the duties of the Agency."

31 **SECTION 31.15.(b)** The salary of the Executive Director of the North
32 Carolina Housing Finance Agency, as fixed by the General Assembly in Section 30.3 of
33 S.L. 2003-284, shall remain in effect until the Board of Directors fixes the Director's
34 compensation as authorized by this act.
35

36 Requested by: Senators Garrou, Dalton, Hagan

37 **SALARY ADJUSTMENT FUND**

38 **SECTION 31.16.(a)** Up to five million dollars (\$5,000,000) in any
39 remaining appropriations in the Reserve for Compensation Increases authorized for
40 employee salary increases not required for that purpose may be used to supplement the
41 Salary Adjustment Fund. These funds shall be used to fund agency requests for the
42 following purposes:

- 43 (1) Salary range revisions to provide competitive salary rates for affected
44 job classifications in response to changes in labor market salary rates
45 as documented through data collection and analysis according to
46 accepted human resource professional practices and standards.
- 47 (2) Reallocation of positions to higher-level job classifications to
48 compensate employees for more difficult duties at competitive salary
49 rates as documented through data collection and analysis according to
50 accepted human resource professional practices and standards.

51 Priority funding shall be given to those salary range revisions and reallocations already
52 approved. The Office of State Budget and Management shall report to the Joint
53 Legislative Commission on Governmental Operations prior to the allocation of any
54 salary adjustment funds for any State agency.

1 **SECTION 31.16.(b)** The Judicial Department is eligible for the funding
2 authorized in subsection (a) of this section.
3

4 Requested by: Senators Garrou, Dalton, Hagan

5 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES**
6 **COMMISSION SALARY INCREASES**

7 **SECTION 31.16A.** For the 2004-2005 fiscal year, the Secretary of Revenue
8 shall transfer at the end of each quarter from the State sales and use tax net collections
9 received by the Department of Revenue under Article 5 of Chapter 105 of the General
10 Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any
11 legislative salary increase for employees of the Wildlife Resources Commission.
12

13 Requested by: Senators Garrou, Dalton, Hagan, Rand

14 **INSURANCE BENEFITS FOR STATE EMPLOYEES**

15 **SECTION 31.16B.** G.S. 58-31-60 is amended by adding a new subsection to
16 read:

17 "(c2) Any Committee may enter into an agreement with one or more other
18 committees to join together to issue joint requests for proposals. Each Committee shall
19 designate one of its members to be its representative on a separate Joint Committee that
20 shall issue a request for proposals. All proposals received by the Joint Committee shall
21 follow the same procedure set forth in subsection (c1) of this section, except that after
22 the public opening, the Joint Committee shall review the proposals, examining the cost
23 and quality of the products, the reputation and capabilities of the insurance companies
24 submitting the proposals, and other appropriate criteria. The Joint Committee shall
25 determine which proposal, if any, would meet the needs and desires of the employees in
26 the Joint Committee's payroll units and, based on the Joint Committee's determination,
27 the Committee shall award a payroll deduction slot to the company submitting the
28 proposal that meets those needs and desires. The Joint Committee may reject any or all
29 proposals."
30

31 Requested by: Senators Garrou, Dalton, Hagan

32 **REPORT ON PROPOSED UNC UNIFIED LEAVE POLICY**

33 **SECTION 31.16C.** The Board of Governors of The University of North
34 Carolina shall report to the Senate and the House of Representatives Appropriations
35 Committees by February 1, 2005, on the Board's recommendation to implement a
36 unified leave policy for employees subject to Article 2 of Chapter 126 of the General
37 Statutes, or any other category of employee under the university system expected to
38 come under a unified leave policy. The report at a minimum shall address all of the
39 following items with respect to implementing a proposed unified leave policy:

- 40 (1) The rationale for adopting a unified leave policy separate and apart
41 from the current traditional leave policies for State employees in
42 agencies, departments, and universities.
- 43 (2) The potential financial impact on the Teachers' and State Employees'
44 Retirement System with respect to the amount of unused leave an
45 employee may count as credit toward retirement years of service.
- 46 (3) The portability of employee leave balances when moving from the
47 current traditional leave systems to a unified leave system and from a
48 unified leave system to the current traditional leave system in other
49 State agencies and departments.
- 50 (4) The potential implementation and future continuation costs for a
51 unified leave system.
- 52 (5) A comparison of leave benefits between a unified leave program and
53 the current traditional leave programs and policies.

- 1 (6) A detailed plan as to the implementation of recommended leave policy
 2 changes and how career employees' leave will be converted under the
 3 new plan.
 4 (7) Any other relevant information and statutory changes that are needed.
 5

6 Requested by: Senators Garrou, Dalton, Hagan

7 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

8 **SECTION 31.16D.** Section 30.16(c) of S.L. 2003-284 reads as rewritten:

9 "**SECTION 30.16.(c)** Effective July 1, 2004, the State's employer contribution rates
 10 budgeted for retirement and related benefits as percentage of covered salaries for the
 11 2004-2005 fiscal year are (i) ~~five and seventy seven hundredths percent (5.77%)~~ five
 12 and ninety-eight hundredths percent (5.98%) – Teachers and State Employees; (ii) ~~ten~~
 13 ~~and seventy seven hundredths percent (10.77%)~~ ten and ninety-eight hundredths percent
 14 (10.98) – State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent
 15 (10.56%) – University Employees' Optional Retirement System; (iv) ten and fifty-six
 16 hundredths percent (10.56%) – Community College Optional Retirement Program; (v)
 17 ~~fifteen and twelve hundredths percent (15.12%)~~ fifteen and ninety-three hundredths
 18 percent (15.93%) – Consolidated Judicial Retirement System; and (vi) three and twenty
 19 hundredths percent (3.20%) – Legislative Retirement System. Each of the foregoing
 20 contribution rates includes three and twenty hundredths percent (3.20%) for hospital and
 21 medical benefits. The rate for Teachers and State Employees, State Law Enforcement
 22 Officers, the Community College Optional Retirement Program, and the University
 23 Employees' Optional Retirement Program includes fifty-two hundredths percent
 24 (0.52%) for the Disability Income Plan. The rate for State Law Enforcement Officers
 25 includes five percent (5%) for Supplemental Retirement Income."
 26

27 Requested by: Senators Garrou, Dalton, Hagan

28 **RETIREMENT SYSTEM COLAS**

29 **SECTION 31.17.(a)** G.S. 135-5 is amended by adding a new subsection to

30 read:

31 "~~(mmm)~~ From and after July 1, 2004, the retirement allowance to or on account of
 32 beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased
 33 by two percent (2%) of the allowance payable on June 1, 2004, in accordance with
 34 G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or
 35 on account of beneficiaries whose retirement commenced after July 1, 2003, but before
 36 June 30, 2004, shall be increased by a prorated amount of two percent (2%) of the
 37 allowance payable as determined by the Board of Trustees based upon the number of
 38 months that a retirement allowance was paid between July 1, 2003, and June 30, 2004."

39 **SECTION 31.17.(b)** G.S. 135-65 is amended by adding a new subsection to

40 read:

41 "~~(y)~~ From and after July 1, 2004, the retirement allowance to or on account of
 42 beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased
 43 by two percent (2%) of the allowance payable on June 1, 2004, in accordance with
 44 G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or
 45 on account of beneficiaries whose retirement commenced after July 1, 2003, but before
 46 June 30, 2004, shall be increased by a prorated amount of two percent (2%) of the
 47 allowance payable as determined by the Board of Trustees based upon the number of
 48 months that a retirement allowance was paid between July 1, 2003, and June 30, 2004."

49 **SECTION 31.17.(c)** G.S. 120-4.22A is amended by adding a new subsection

50 to read:

51 "~~(s)~~ From and after July 1, 2004, the retirement allowance to or on account of
 52 beneficiaries whose retirement commenced on or before January 1, 2004, shall be
 53 increased by two percent (2%) of the allowance payable on June 1, 2004, in accordance
 54 with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance
 55 to or on account of beneficiaries whose retirement commenced after January 1, 2004,

1 but before June 30, 2004, shall be increased by a prorated amount of two percent (2%)
2 of the allowance payable as determined by the Board of Trustees based upon the
3 number of months that a retirement allowance was paid between January 1, 2004, and
4 June 30, 2004."
5

6 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle

7 **INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND**
8 **RESCUE SQUAD WORKERS' PENSION FUND**

9 **SECTION 31.18.** G.S. 58-86-55 reads as rewritten:

10 **"§ 58-86-55. Monthly pensions upon retirement.**

11 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
12 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
13 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
14 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
15 ~~fifty eight dollars (\$158.00)~~ one hundred sixty-one dollars (\$161.00) per month. Any
16 retired fireman receiving a pension shall, effective ~~July 1, 2003,~~ July 1, 2004, receive a
17 pension of ~~one hundred fifty eight dollars (\$158.00)~~ one hundred sixty-one dollars
18 (\$161.00) per month.

19 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
20 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
21 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
22 pension hereunder until the member's official duties as a fireman or rescue squad
23 worker for which the member is paid compensation shall have been terminated and the
24 member shall have retired as such according to standards or rules fixed by the board of
25 trustees.

26 A member who is totally and permanently disabled while in the discharge of the
27 member's official duties as a result of bodily injuries sustained or as a result of extreme
28 exercise or extreme activity experienced in the course and scope of those official duties
29 and who leaves the fire or rescue squad service because of this disability shall be
30 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
31 ~~fifty eight dollars (\$158.00)~~ one hundred sixty-one dollars (\$161.00) per month
32 beginning the first month after the member's fifty-fifth birthday. All applications for
33 disability are subject to the approval of the board who may appoint physicians to
34 examine and evaluate the disabled member prior to approval of the application, and
35 annually thereafter. Any disabled member shall not be required to make the monthly
36 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

37 A member who is totally and permanently disabled for any cause, other than line of
38 duty, who leaves the fire or rescue squad service because of this disability and who has
39 at least 10 years of service with the pension fund, may be permitted to continue making
40 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
41 contributions for a total of 240 months. The member shall upon attaining the age of 55
42 years be entitled to receive a pension as provided by this section. All applications for
43 disability are subject to the approval of the board who may appoint physicians to
44 examine and evaluate the disabled member prior to approval of the application and
45 annually thereafter.

46 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
47 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
48 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
49 of the General Statutes, or whose volunteer department is taken over by a city or county,
50 and because of such annexation or takeover is unable to perform as a fireman or rescue
51 squad worker of any status, and if the member has at least 10 years of service with the
52 pension fund, may be permitted to continue making a monthly contribution of ten
53 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
54 months. The member upon attaining the age of 55 years and completion of such
55 contributions shall be entitled to receive a pension as provided by this section. Any

1 application to make monthly contributions under this section shall be subject to a
2 finding of eligibility by the Board of Trustees upon application of the member.

3 The pensions provided shall be in addition to all other pensions or benefits under any
4 other statutes of the State of North Carolina or the United States, notwithstanding any
5 exclusionary provisions of other pensions or retirement systems provided by law."
6

7 Requested by: Senators Garrou, Dalton, Hagan

8 **RETIRED TEACHERS RETURNING TO CLASSROOM WITHOUT LOSS OF**
9 **RETIREMENT BENEFITS/OPTION EXTENDED**

10 **SECTION 31.18A.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
11 rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

12 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2004-~~
13 2005."

14 **SECTION 31.18A.(b)** The introductory language of Section 67 of S.L.
15 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

16 "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2004,~~ 2005,
17 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

18 **SECTION 31.18A.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
19 rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

20 "(b) This section becomes effective January 1, 1999, and expires June 30,
21 ~~2004-2005.~~"

22 **SECTION 31.18A.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
23 rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

24 "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
25 30, ~~2004-2005.~~"

26 **SECTION 31.18A.(e)** The Retirement Systems Division shall conduct an
27 analysis of the postretirement reemployment issue, including a survey of peer State
28 systems, cost analyses, review of relevant impacting federal regulations, and the
29 administrative impact of various postretirement reemployment policies. The Retirement
30 Systems Division shall develop findings and recommendations for the adoption of an
31 efficient and fiscally sound policy on postretirement reemployment and shall report
32 those findings and recommendations, as well as the analysis that produced them, to the
33 General Assembly by February 1, 2005.

34 **SECTION 31.18A.(f)** In order to facilitate the success of its request for a
35 private letter ruling from the Internal Revenue Service, as mandated by Section 28.13(d)
36 of S.L. 2002-126, the Retirement Systems Division may modify the scope of its inquiry
37 to the extent that a substantive ruling may be obtained and used by the General
38 Assembly to adopt an efficient and fiscally sound policy on postretirement
39 reemployment.

40 **SECTION 31.18A.(g)** Effective July 1, 2004, each local school
41 administrative unit shall pay an employer contribution rate of thirteen and sixty-four
42 hundredths percent (13.64%) for retirement and other related benefits as a percentage of
43 covered salaries for all employees under the age of 59½ who have retired from the
44 Teachers' and State Employees' Retirement System and continue to work either in a
45 full-time, part-time, temporary, interim, or on a fee-for-service basis, whether
46 contractual or otherwise, for the 2004-2005 fiscal year. The employer contribution rate
47 shall be paid from sources other than funds from the General Fund or the Highway
48 Fund. Each local school administrative unit shall report monthly to the Retirement
49 Systems Division. The foregoing contribution rate includes three and twenty hundredths
50 percent (3.20%) for hospital and medical benefits and fifty-two hundredths percent
51 (0.52%) for the Disability Income Plan.

52
53 Requested by: Senators Garrou, Dalton, Hagan

54 **CHANGE DISTRICT COURT JUDGE RETIREMENT AGE**

55 **SECTION 31.18B.(a)** G.S. 7A-4.20 reads as rewritten:

1 **"§ 7A-4.20. Age limit for service as justice or judge: exception.**

2 (a) ~~No~~Except as otherwise provided in this section, no justice or judge of the
3 General Court of Justice may continue in office beyond the last day of the month in
4 which ~~he~~ the judge attains his or her seventy-second birthday, but justices and judges so
5 retired may be recalled for periods of temporary service as provided in Subchapters II
6 and III of this chapter.

7 (b) A district court judge who attains his or her seventy-second birthday during a
8 term of office may continue in office until the expiration of the term for which the judge
9 was elected or appointed to serve."

10 **SECTION 31.18B.(b)** This section becomes effective July 1, 2004, and
11 applies to judges who have not attained their seventy-second birthdays on or before that
12 date.

13
14 Requested by: Senators Garrou, Dalton, Hagan, Kerr

15 **CLARIFY THAT PROBATION AND PAROLE OFFICERS ARE COVERED BY**
16 **THE LAW-ENFORCEMENT OFFICER'S, FIREMEN'S, RESCUE SQUAD**
17 **WORKERS' AND CIVIL AIR PATROL MEMBERS' DEATH BENEFITS**
18 **ACT**

19 **SECTION 31.18C.(a)** G.S. 143-166.2(d) reads as rewritten:

20 "(d) The term "law-enforcement officer," "officer," or "fireman" shall mean all
21 law-enforcement officers employed full time by the State of North Carolina or any
22 county or municipality thereof and all full-time custodial employees and probation and
23 parole officers of the North Carolina Department of Correction and all full-time
24 institutional and detention employees of the Department of Juvenile Justice and
25 Delinquency Prevention. The term "firemen" shall mean both "eligible fireman"; or
26 "fireman" as defined in G.S. 58-86-25 and all full-time, permanent part-time and
27 temporary employees of the North Carolina Division of Forest Resources, Department
28 of Environment and Natural Resources, during the time they are actively engaged in
29 fire-fighting activities; and shall mean all full-time employees of the North Carolina
30 Department of Insurance during the time they are actively engaged in fire-fighting
31 activities, during the time they are training fire fighters or rescue squad workers, and
32 during the time they are engaged in activities as members of the State Emergency
33 Response Team, when the Team has been activated. The term "rescue squad worker"
34 shall mean a person who is dedicated to the purpose of alleviating human suffering and
35 assisting anyone who is in difficulty or who is injured or becomes suddenly ill by
36 providing the proper and efficient care or emergency medical services. In addition, this
37 person must belong to an organized rescue squad which is eligible for membership in
38 the North Carolina Association of Rescue Squads, Inc., and the person must have
39 attended a minimum of 36 hours of training and meetings in the last calendar year. Each
40 rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must
41 file a roster of those members meeting the above requirements with the State Treasurer
42 on or about January 1 of each year, and this roster must be certified to by the secretary
43 of said association. In addition, the term "rescue squad worker" shall mean a member of
44 an ambulance service certified by the Department of Health and Human Services
45 pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of
46 Health and Human Services shall furnish a list of ambulance service members to the
47 State Treasurer on or about January 1 of each year. The term "Civil Air Patrol
48 members" shall mean those senior members of the North Carolina Wing-Civil Air
49 Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The
50 term "fireman" shall also mean county fire marshals when engaged in the performance
51 of their county duties. The term "rescue squad worker" shall also mean county
52 emergency services coordinators when engaged in the performance of their county
53 duties."

54 **SECTION 31.18C.(b)** This section is effective when it becomes law and
55 applies to persons killed in the line of duty on or after that date.

1
2 Requested by: Senators Rand, Garrou, Dalton, Hagan

3 **RETIREE HEALTH BENEFIT FUND**

4 **SECTION 31.20.(a)** G.S. 135-7 reads as rewritten:

5 "**§ 135-7. Management of funds.**

6 (a) Vested in Board of Trustees. – The Board of Trustees shall be the trustee of
7 the several funds created by this Chapter as provided in this section and in G.S. 135-8.

8 (b) Regular Interest Allowance. – The Board of Trustees annually shall allow
9 regular interest on the mean amount for the preceding year in each of the funds with the
10 exception of the expense fund. The amounts so allowed shall be due and payable to said
11 funds, and shall be annually credited thereto by the Board of Trustees from interest and
12 other earnings on the moneys of the Retirement System. Any additional amount
13 required to meet the interest on the funds of the Retirement System shall be paid from
14 the pension accumulation fund, and any excess of earnings over such amount required
15 shall be paid to the pension accumulation fund. Regular interest shall mean such per
16 centum rate to be compounded annually as shall be determined by the Board of Trustees
17 on the basis of the interest earnings of the System for the preceding year and of the
18 probable earnings to be made, in the judgment of the Board, during the immediate
19 future, such rate to be limited to a minimum of three per centum (3%) and a maximum
20 of four per centum (4%), with the latter rate applicable during the first year of operation
21 of the Retirement System.

22 (c) Custodian of Funds; Disbursements; Bond of Director. – The State Treasurer
23 shall be the custodian of the several funds and shall invest their assets in accordance
24 with the provisions of G.S. 147-69.2 and 147-69.3.

25 (d) Deposits to Meet Disbursements. – For the purpose of meeting disbursements
26 for pensions, annuities and other payments there may be kept available cash, not
27 exceeding ten per centum (10%) of the total amount in the several funds of the
28 Retirement System, on deposit with the State Treasurer of North Carolina.

29 (e) Personal Profit or Acting as Surety Prohibited. – Except as otherwise herein
30 provided, no trustee and no employee of the Board of Trustees shall have any direct
31 interest in the gains or profits of any investment made by the Board of Trustees, nor as
32 such receive any pay or emolument for his service. No trustee or employee of the Board
33 shall, directly or indirectly, for himself or as an agent in any manner use the same,
34 except to make such current and necessary payments as are authorized by the Board of
35 Trustees; nor shall any trustee or employee of the Board of Trustees become an endorser
36 or surety or in any manner an obligor for moneys loaned or borrowed from the Board of
37 Trustees.

38 (f) Retiree Health Benefit Fund. – The Retiree Health Benefit Fund is established
39 as a fund in which accumulated contributions from employers and any earnings on those
40 contributions shall be used to provide health benefits to retired and disabled employees
41 and their applicable beneficiaries as provided by this Chapter. The Retiree Health
42 Benefit Fund shall be administered in accordance with the provisions of subsection (a)
43 of this section. Employer contributions to the Fund are irrevocable. The assets of the
44 Fund are dedicated to providing health benefits to retired and disabled employees and
45 their applicable beneficiaries as provided by this Chapter and are not subject to the
46 claims of creditors of the employers making contributions to the Fund."

47 **SECTION 31.20.(b)** The assets contained in the Department of State
48 Treasurer's Retirees Clearing Account (Code 19342) and the Department of State
49 Treasurer's Reserve for Retirement Health Premiums (Code 19942) at the end of June
50 30, 2004, shall be deposited into the Retiree Health Benefit Fund created by this section
51 on July 1, 2004.

52
53 Requested by: Senators Rand, Garrou, Dalton, Hagan

54 **EMPLOYEES OF NORTH CAROLINA SYMPHONY SOCIETY, INC., UNDER**
55 **STATE HEALTH PLAN**

1 **SECTION 31.21.(a)** G.S. 135-40.1(6) reads as rewritten:

2 "(6) Employing Unit. – A North Carolina School System; Community
3 College; State Department, Agency or Institution; Administrative
4 Office of the Courts; or Association or Examining Board whose
5 employees are eligible for membership in a State-Supported
6 Retirement System. An employing unit also shall mean a charter
7 school in accordance with Part 6A of Chapter 115C of the General
8 Statutes whose board of directors elects to become a participating
9 employer in the Plan under G.S. 135-40.3A. Bona fide fire
10 departments, rescue or emergency medical service squads, and
11 national guard units are deemed to be employing units for the purpose
12 of providing benefits under this Article. The North Carolina
13 Symphony Society, Inc., is deemed to be an employing unit for the
14 purpose of providing benefits under this Article."

15 **SECTION 31.21.(b)** G.S. 135-40.2(a2) reads as rewritten:

16 "(a2) The following persons are eligible for coverage under the Plan on a partially
17 contributory basis, subject to the provisions of G.S. 130-40.3.

18 (1) ~~A school employee in a job-sharing position as defined in
19 G.S. 115C 302.2(b) shall be eligible for coverage under the Plan, on a
20 partially contributory basis, subject to the provisions of
21 G.S. 135-40.3.G.S. 115C-302.2(b).~~ If these employees elect to
22 participate in the Plan, the employing unit shall pay fifty percent
23 (50%) of the Plan's total noncontributory premiums. Individual
24 employees shall pay the balance of the total noncontributory premiums
25 not paid by the employing unit.

26 (2) Employees of the North Carolina Symphony Society, Inc., their
27 eligible spouses, and eligible dependent children."

28 **SECTION 31.21.(c)** G.S. 135-39.6A(d) reads as rewritten:

29 "(d) In setting premiums for firemen, rescue squad workers, and members of the
30 national guard, and their eligible dependents, the Executive Administrator and Board of
31 Trustees shall establish rates separate from those affecting ~~other members of active and
32 retired teachers, State employees, and their dependents enrolled in the Plan.~~ In setting
33 premiums for employees of the North Carolina Symphony Society, Inc., and their
34 eligible dependents, the Executive Administrator and Board of Trustees shall establish
35 rates separate from those affecting active teachers and State employees and their
36 dependents enrolled in the Plan. These separate premium rates shall include rate factors
37 for incurred but unreported claim costs, for the effects of adverse selection from
38 voluntary participation in the Plan, and for any other actuarially determined measures
39 needed to protect the financial integrity of the Plan for the benefit of its served
40 employees, retired employees, and their eligible dependents."

41 **SECTION 31.21.(d)** This section becomes effective July 1, 2004.

42
43 Requested by: Senators Rand, Garrou, Dalton, Hagan

44 **TRICARE SUPPLEMENTAL HEALTH INSURANCE**

45 **SECTION 31.24.(a)** In lieu of the maximum annual employer contributions
46 to the Teachers' and State Employees' Comprehensive Major Medical Plan authorized in
47 Section 30.16(e) of S.L. 2003-284, employers, including the State Retirement Systems,
48 may make contributions, payable monthly, each monthly payment not to exceed
49 sixty-three dollars and fifty cents (\$63.50), on behalf of each covered employee or
50 retired employee to sponsors of TRICARE Supplemental Health Insurance programs for
51 employees or retired employees who elect to be covered by the TRICARE Military
52 Health System's standard benefit option and who elect not to be covered by the
53 Teachers' and State Employees' Comprehensive Major Medical Plan.

54 **SECTION 31.24.(b)** This section becomes effective January 1, 2005.

1 Requested by: Senators Rand, Garrou, Dalton, Hagan

2 **STATE HEALTH PLAN: LIABILITY OF THIRD PARTIES; RIGHT OF**
3 **SUBROGATION; RIGHT OF FIRST RECOVERY**

4 **SECTION 31.25.** Part 3 of Article 3 of Chapter 135 of the General Statutes
5 is amended by adding the following new section to read:

6 **"§ 135-40.13A. Liability of third person; right of subrogation; right of first**
7 **recovery.**

8 Whenever the Plan pays benefits for hospital, surgical, medical, or prescription drug
9 expenses, with respect to any Plan member, the Plan shall be subrogated, to the extent
10 of any payments under the Plan, to all of the Plan member's rights of recovery against
11 liable third parties, regardless of the entity or individual from whom recovery may be
12 due. The Plan member shall do nothing to prejudice these rights. The Plan has the right
13 to first recovery on any amounts so recovered, whether by the Plan or the Plan member,
14 and whether recovered by litigation, arbitration, mediation, settlement, or otherwise. If
15 the Plan is precluded from exercising its right of subrogation, it may exercise its rights
16 of recovery to the extent allowed by law. If the Plan recovers damages from a third
17 party in excess of the claims paid, any excess will be paid to the member, less a
18 proportionate share of the costs of collection. In the event a Plan member recovers any
19 amounts from a third party to which the Plan is entitled under this section, the Plan may
20 recover the amounts directly from the Plan member. The Plan has a lien, for the value of
21 claims paid related to the liability of the third party, on any damages subsequently
22 recovered against the liable third party. If the Plan member fails to pursue the remedy
23 against a liable third party, the Plan is subrogated to the rights of the Plan member and
24 is entitled to enforce liability in the Plan's own name or in the name of the Plan member
25 for the amount paid by the Plan."

26
27 Requested by: Senators Rand, Garrou, Dalton, Hagan

28 **LOCAL GOVERNMENTS PROVIDED OPTIONAL COVERAGE UNDER**
29 **TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR**
30 **MEDICAL PLAN**

31 **SECTION 31.26.(a)** G.S. 135-40 is amended by adding the following new
32 subsection to read:

33 "(a2) The State of North Carolina deems it to be in the public interest for
34 employees of an employer, as defined for local government employers by
35 G.S. 128-21(11), to be given the opportunity to participate in the benefits provided by
36 the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.
37 Participation shall be voluntary for local government employers."

38 **SECTION 31.26.(b)** G.S. 135-40.1(6) reads as rewritten:

39 "(6) Employing Unit. – A North Carolina School System; Community
40 College; State Department, Agency or Institution; Administrative
41 Office of the Courts; or Association or Examining Board whose
42 employees are eligible for membership in a State-Supported
43 Retirement System. An employing unit also shall mean a charter
44 school in accordance with Part 6A of Chapter 115C of the General
45 Statutes whose board of directors elects to become a participating
46 employer in the Plan under G.S.135-40.3A. Bona fide fire
47 departments, rescue or emergency medical service squads, and
48 national guard units are deemed to be employing units for the purpose
49 of providing benefits under this Article. An employing unit shall also
50 mean an employer, as defined for local government employers by
51 G.S. 128-21(11), that elects to provide benefits for its employees and
52 retired employees and that meets all of the following conditions:

53 a. The local government employer, by resolution legally adopted
54 by the employer and approved by the Executive Administrator
55 and Board of Trustees, elects to have its employees become

1 eligible to participate in the Plan, and to make the contributions
 2 as required by the Executive Administrator and Board of
 3 Trustees.

4 b. The local government employer enrolls all of its eligible
 5 employees, retired employees, and, as applicable, their eligible
 6 family members in the Plan.

7 c. If the local government employer elects to cover its retired
 8 employees under the Plan, then:

9 1. The agreement of the local government employer to
 10 make contributions on account of all of its retired
 11 employees shall be irrevocable, and should a local
 12 government employer for any reason become financially
 13 unable to make the contributions payable on account of
 14 its retired employees, then the employer shall be deemed
 15 to be in temporary default. Temporary default shall not
 16 relieve the employer from any liability for its
 17 contributions payable on account of its retired
 18 employees; and

19 2. The local government employer shall make a
 20 contribution to the Local Government Employees'
 21 Retirement System equal to the contribution required of
 22 all other employing units to the State Retirement
 23 Systems for covering their retired employees. If the local
 24 government employer does not participate in the Local
 25 Government Employees' Retirement System and has
 26 another formally established retirement plan, the local
 27 government employer shall remit to the Teachers' and
 28 State Employees' Comprehensive Major Medical Plan
 29 the amount of premium required by the Executive
 30 Administrator and Board of Trustees for coverage of
 31 retirees and their eligible family members."

32 **SECTION 31.26.(c)** G.S. 135-40.1(3) reads as rewritten:

33 "(3) Dependent Child. – A natural, legally adopted, or foster child of the
 34 employee and/or spouse, unmarried, up to the first of the month
 35 following his or her 19th birthday, whether or not the child is living
 36 with the employee, as long as the employee is legally responsible for
 37 such child's maintenance and support. Dependent child shall also
 38 include any child under age 19 who has reached his or her 18th
 39 birthday, provided the employee was legally responsible for such
 40 child's maintenance and support on his or her 18th birthday.

41 A foster child is covered (i) if living in a regular parent-child
 42 relationship with the expectation that the employee will continue to
 43 rear the child into adulthood, (ii) if at the time of enrollment, or at the
 44 time a foster child relationship is established, whichever occurs first,
 45 the employee applies for coverage for such child and submits evidence
 46 of a bona fide foster child relationship, identifying the foster child by
 47 name and setting forth all relevant aspects of the relationship, (iii) if
 48 the Claims Processor accepts the foster child as a participant through a
 49 separate written document identifying the foster child by name and
 50 specifically recognizing the foster child relationship, and (iv) if at the
 51 time a claim is incurred, the foster child relationship, as identified by
 52 the employee, continues to exist. Children placed in a home by a
 53 welfare agency which obtains control of, and provides for maintenance
 54 of, the child(ren), are not eligible participants.

1 Coverage may be extended beyond the 19th birthday under the
2 following conditions:

- 3 a. If the dependent is a full-time student, between the ages of 19
4 and 26, who is pursuing a course of study that represents at least
5 the normal workload of a full-time student at a school or college
6 accredited by the state of jurisdiction.
7 b. The dependent is physically or mentally incapacitated to the
8 extent that he or she is incapable of earning a living and (i) such
9 handicap developed or began to develop before the dependent's
10 19th birthday, or (ii) such handicap developed or began to
11 develop before the dependent's 26th birthday if the dependent
12 was covered by the Plan in accordance with G.S. 135-40.1(3)a.

13 Dependent children of firemen, rescue squad workers, and
14 members of the national guard are subject to the same terms and
15 conditions as are other dependent children covered by this
16 subdivision.

17 Dependent children of employees of employers, as defined
18 for local government employers in G.S. 128-21(11), are subject
19 to the same terms and conditions as are other dependent
20 children covered by this subdivision."

21 **SECTION 31.26.(d)** G.S. 135-40.1(7) reads as rewritten:

22 "(7) Enrollment. – New employees must enroll themselves and their
23 dependents within 30 days from the date of employment or from first
24 becoming eligible on a noncontributory basis. Coverage may become
25 effective on the first day of the month following date of entry on
26 payroll or on the first day of the following month. New employees not
27 enrolling themselves and their dependents within 30 days, or not
28 adding dependents when first eligible as provided herein may enroll on
29 the first day of any month but will be subject to a 12-month waiting
30 period for preexisting health conditions, except for employees who
31 elect to change their coverage in accordance with rules established by
32 the Executive Administrator and Board of Trustees for optional
33 prepaid hospital and medical benefit plans. Children born to covered
34 employees having coverage type (2), or (3), as outlined in
35 G.S. 135-40.3(d) shall be automatically covered at the time of birth
36 without any waiting period for preexisting health conditions. Children
37 born to covered employees having coverage type (1) shall be
38 automatically covered at birth without any waiting period for
39 preexisting health conditions so long as the Claims Processor receives
40 notification within 30 days of the date of birth that the employee
41 desires to change from coverage (1) to coverage type (2), or (3),
42 provided that the employee pays any additional premium required by
43 the coverage type selected retroactive to the first day of the month in
44 which the child was born.

45 Newly acquired dependents (spouse/child) enrolled within 30 days
46 of becoming an eligible dependent will not be subject to the 12-month
47 waiting period for preexisting conditions. A dependent can become
48 qualified due to marriage, adoption, entering a foster child
49 relationship, due to the divorce of a dependent child or the death of the
50 spouse of a dependent child, and at the beginning of each legislative
51 session (applies only to enrolled legislators). Effective date for newly
52 acquired dependents if application was made within the 30 days can be
53 the first day of the following month. Effective date for an adopted
54 child can be date of adoption, or date of placement in the adoptive
55 parent's home, or the first of the month following the date of adoption

1 or placement. Firemen, rescue squad workers, and members of the
2 national guard, and their eligible dependents are subject to the same
3 terms and conditions as are new employees and their dependents
4 covered by this subdivision. Enrollments in these circumstances must
5 occur within 30 days of eligibility to enroll. Employees of employers,
6 as defined for local government employers in G.S. 128-21(11), and
7 their eligible dependents are subject to the same terms and conditions
8 as are new employees and their dependents covered by this
9 subdivision. Enrollments in these circumstances must occur within 30
10 days of eligibility to enroll."

11 **SECTION 31.26.(e)** G.S. 135-40.1(17) reads as rewritten:

12 "(17) Retired Employee (Retiree). – Retired teachers, State employees, and
13 members of the General Assembly who are receiving monthly
14 retirement benefits from any retirement system supported in whole or
15 in part by contributions of the State of North Carolina, so long as the
16 retiree is enrolled. On and after January 1, 1988, a retiring employee or
17 retiree must have completed at least five years of contributory
18 retirement service with an employing unit prior to retirement from any
19 State-supported retirement system in order to be eligible for group
20 benefits under this Part as a retired employee or retiree. Retired
21 employee also means the retired or disabled employees of an
22 employer, as defined for local government employers in
23 G.S. 128-21(11), that receive a monthly benefit from the Local
24 Government Employees' Retirement System or any other formal
25 retirement plan established by their employer."

26 **SECTION 31.26.(f)** G.S. 135-40.3 is amended by adding the following new
27 subsection to read:

28 "(g) Employees of employers, as defined for local government employers in
29 G.S. 128-21(11), are subject to the same terms and conditions of this section as are
30 employees. Eligible dependents of employees of local government employers are
31 subject to the same terms and conditions of this section as are dependents of
32 employees."

33 **SECTION 31.26.(g)** G.S. 135-40.2(a) is amended by adding the following
34 new subdivision to read:

35 "(9) Employees and applicable retired employees of an employer, as
36 defined for local government employers by G.S. 128-21(11), their
37 eligible spouses and eligible dependent children as determined by their
38 employer."

39 **SECTION 31.26.(h)** G.S. 135-40.2(b) is amended by adding the following
40 new subdivision to read:

41 "(14) Employees and applicable retired employees of an employer, as
42 defined for local government employers by G.S. 128-21(11), their
43 eligible spouses and eligible dependent children as determined by their
44 employer."

45 **SECTION 31.26.(i)** G.S. 135-40.2(a2) reads as rewritten:

46 "(a2) The following persons are eligible for coverage under the Plan on a partially
47 contributory basis, subject to the provisions of G.S. 130-40.3:

48 (1) A school employee in a job-sharing position as defined in
49 G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a
50 partially contributory basis, subject to the provisions of
51 G.S. 135-40.3.G.S. 115C-302.2(b). If these employees elect to
52 participate in the Plan, the employing unit shall pay fifty percent
53 (50%) of the Plan's total noncontributory premiums. Individual
54 employees shall pay the balance of the total noncontributory premiums
55 not paid by the employing unit.

1 (2) Employees and applicable retired employees of an employer, as
2 defined for local government employers by G.S. 128-21(11), their
3 eligible spouses and eligible dependent children as determined by their
4 employer."

5 **SECTION 31.26.(j)** G.S. 135-39.6A(d) reads as rewritten:

6 "(d) In setting premiums for firemen, rescue squad workers, and members of the
7 national guard, and their eligible dependents, the Executive Administrator and Board of
8 Trustees shall establish rates separate from those affecting ~~other members of~~ active and
9 retired teachers, State employees, and their dependents enrolled in the Plan. In setting
10 premiums for employees and retired employees of employers, as defined for local
11 government employers by G.S. 128-21(11), and their eligible dependents, the Executive
12 Administrator and Board of Trustees shall establish rates separate from those affecting
13 active and retired teachers, State employees, and their dependents enrolled in the Plan.
14 These separate premium rates shall include rate factors for incurred but unreported
15 claim costs, for the effects of adverse selection from voluntary participation in the Plan,
16 and for any other actuarially determined measures needed to protect the financial
17 integrity of the Plan for the benefit of its served employees, retired employees, and their
18 eligible dependents."

19 **SECTION 31.26.(k)** This section applies to Bladen, Cherokee, Dare,
20 Halifax, Randolph, and Wilkes Counties only.

21 **SECTION 31.26.(l)** This section becomes effective July 1, 2004.

22
23 Requested by: Senators Rand, Garrou, Dalton, Hagan

24 **STATE HEALTH PLAN EXECUTIVE ADMINISTRATOR AND DEPUTY**
25 **EXECUTIVE ADMINISTRATOR EXEMPT FROM STATE PERSONNEL**
26 **ACT**

27 **SECTION 31.27.(a)** G.S. 135-39.4A reads as rewritten:

28 "**§ 135-39.4A. Executive Administrator.**

29 (a) The Plan shall have an Executive ~~Administrator~~ Administrator and a Deputy
30 Executive Administrator. The Executive Administrator and the Deputy Executive
31 Administrator positions are exempt from the provisions of Chapter 126 of the General
32 Statutes as provided in G.S. 126-5(c1).

33 (b) The Executive Administrator shall be appointed by the Commissioner of
34 Insurance. The term of employment and salary of the Executive Administrator shall be
35 set by the Commissioner of Insurance upon the advice of an executive committee of the
36 Committee on Employee Hospital and Medical Benefits.

37 The Executive Administrator may be removed from office by the Commissioner of
38 Insurance, upon the advice of an executive committee of the Committee on Employee
39 Hospital and Medical Benefits, and any vacancy in the office of Executive
40 Administrator may be filled by the Commissioner of Insurance with the term of
41 employment and salary set upon the advice of an executive committee of the Committee
42 on Employee Hospital and Medical Benefits.

43 (c) to (e) Repealed by Session Laws 1987, c. 857, s. 5.

44 (f) The Executive Administrator shall appoint the Deputy Executive
45 Administrator and may employ such clerical and professional staff, and such other
46 assistance as may be necessary to assist the Executive Administrator and the Board of
47 Trustees in carrying out their duties and responsibilities under this Article. The
48 Executive Administrator may also negotiate, renegotiate and execute contracts with
49 third parties in the performance of his duties and responsibilities under this Article;
50 provided any contract negotiations, renegotiations and execution with a Claims
51 Processor or with an optional prepaid hospital and medical benefit plan or with a
52 preferred provider of institutional or professional hospital and medical care or with a
53 pharmacy benefit manager shall be done only after consultation with the Committee on
54 Employee Hospital and Medical Benefits.

55 (g) The Executive Administrator shall be responsible for:

- 1 (1) Cost management programs;
- 2 (2) Education and illness prevention programs;
- 3 (3) Training programs for Health Benefit Representatives;
- 4 (4) Membership functions;
- 5 (5) Long-range planning;
- 6 (6) Provider and participant relations; and
- 7 (7) Communications.

8 Managed care practices used by the Executive Administrator in cost management
 9 programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223,
 10 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

11 (h) The Executive Administrator shall make reports and recommendations on the
 12 Plan to the President of the Senate, the Speaker of the House of Representatives and the
 13 Committee on Employee Hospital and Medical Benefits."

14 **SECTION 31.27.(b)** G.S. 126-5(c1) is amended by adding the following
 15 new subdivision to read:

16 "(23) The Executive Administrator and the Deputy Executive Administrator
 17 of the Teachers' and State Employees' Comprehensive Major Medical
 18 Plan."

19
 20 Requested by: Senators Garrou, Dalton, Hagan

21 **RESIDENTIAL TREATMENT CENTERS/STATE HEALTH PLAN**
 22 **COVERAGE**

23 **SECTION 31.28.** G.S. 135-40.7B(b) reads as rewritten:

24 "(b) Notwithstanding any other provision of this Part, the following necessary
 25 services for the care and treatment of chemical dependency and mental illness shall be
 26 covered under this section: allowable institutional and professional charges for inpatient
 27 care, outpatient care, intensive outpatient program services, partial hospitalization
 28 treatment, and residential care and treatment:

- 29 (1) For mental illness treatment:
 - 30 a. Licensed psychiatric hospitals;
 - 31 b. Licensed psychiatric beds in licensed general hospitals;
 - 32 c. Licensed residential treatment ~~facilities;~~ facilities that have
 33 24-hour on-site care provided by a registered nurse and that
 34 hold current accreditation by a national accrediting body
 35 approved by the Plan's mental health case manager;
 - 36 d. Area Mental Health, Developmental Disabilities, and Substance
 37 Abuse Authorities;
 - 38 e. Licensed intensive outpatient treatment programs; and
 - 39 f. Licensed partial hospitalization programs.
- 40 (2) For chemical dependency treatment:
 - 41 a. Licensed chemical dependency units in licensed psychiatric
 42 hospitals;
 - 43 b. Licensed chemical dependency hospitals;
 - 44 c. Licensed chemical dependency treatment facilities;
 - 45 d. Area Mental Health, Developmental Disabilities, and Substance
 46 Abuse Authorities;
 - 47 e. Licensed intensive outpatient treatment programs;
 - 48 f. Licensed partial hospitalization programs; and
 - 49 g. Medical detoxification facilities or units."

50
 51 Requested by: Senators Garrou, Dalton, Hagan, Rand

52 **STATE HEALTH PLAN COVERAGE LIMITATION**

53 **SECTION 31.29.** G. S. 135-40.5(g) reads as rewritten:

54 "(g) Prescription Drugs. – The Plan's allowable charges for prescription legend
 55 drugs to be used outside of a hospital or skilled nursing facility are to be determined by

1 the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable
 2 charges for each outpatient prescription drug less a copayment to be paid by each
 3 covered individual equal to the following amounts: pharmacy charges up to ten dollars
 4 (\$10.00) for each generic prescription, twenty-five dollars (\$25.00) for each branded
 5 prescription, and thirty-five dollars (\$35.00) for each branded prescription with a
 6 generic equivalent drug, and forty dollars (\$40.00) for each branded or generic
 7 prescription not on a formulary used by the Plan. Allowable charges shall not be greater
 8 than a pharmacy's usual and customary charge to the general public for a particular
 9 prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of
 10 the copayments paid by each covered individual. By accepting the copayments and any
 11 remaining allowable charges provided by this subsection, pharmacies shall not balance
 12 bill an individual covered by the Plan. A prescription legend drug is defined as an article
 13 the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear
 14 the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such
 15 articles may not be sold to or purchased by the public without a prescription order.
 16 Benefits are provided for insulin even though a prescription is not required. The Plan
 17 may use a pharmacy benefit manager to help manage the Plan's outpatient prescription
 18 drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan
 19 and its pharmacy benefit manager shall not provide coverage for ~~erectile dysfunction,~~
 20 growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage
 21 is medically necessary to the health of the member. The Plan and its pharmacy benefit
 22 manager shall not provide coverage for erectile dysfunction under this section in excess
 23 of three doses per month for each member of the Plan. The Plan and its pharmacy
 24 benefit manager shall not provide coverage for growth hormone and weight loss drugs
 25 and antifungal drugs for the treatment of nail fungus and botulinium toxin without
 26 approval in advance by the pharmacy benefit manager. Any formulary used by the
 27 Plan's Executive Administrator and pharmacy benefit manager shall be an open
 28 formulary. Plan members shall not be assessed more than two thousand five hundred
 29 dollars (\$2,500) per person per fiscal year in copayments required by this subsection."
 30

31 **PART XXXII. CAPITAL APPROPRIATIONS**

32
 33 Requested by: Senators Garrou, Dalton, Hagan, Hoyle, Clodfelter, Dannelly

34 **CAPITAL APPROPRIATIONS/GENERAL FUND**

35 **SECTION 32.1.** There is appropriated from the General Fund for the
 36 2004-2005 fiscal year the following amount for capital improvements:

	2004-2005
37	
38 Department of Commerce – State Ports Authority	
39 Radio Island Development and Improvements	\$2,000,000
40	
41 Department of Environment and Natural Resources	
42 Water Resources Development Projects	\$27,446,000
43	
44 University of North Carolina System	
45 Center for Design Innovation	2,000,000
46 Winston-Salem State University – Dept. of Life Sciences	2,000,000
47 N.C. A&T and UNC-Greensboro Millennium Campus	4,000,000
48 N.C. Motor Sports Testing and Research Complex	4,000,000
49	
50 TOTAL CAPITAL APPROPRIATION	\$41,446,000

51
 52 Requested by: Senators Garrou, Dalton, Hagan, Thomas, Soles, Kerr, Jenkins,
 53 Holloman, Albertson

54 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

1 **SECTION 32.2.(a)** The Department of Environment and Natural Resources
 2 shall allocate the funds appropriated in this act for water resources development projects
 3 to the following projects whose costs are as indicated:

4	5 Name of Project	6 2004-2005
7	(1) Wilmington Harbor Deepening	\$9,300,000
8	(2) Morehead City Harbor Maintenance	1,000,000
9	(3) Manteo (Shallowbag) Bay Channel Maintenance	2,000,000
10	(4) B. Everett Jordan Water Supply Storage	100,000
11	(5) John H. Kerr Reservoir Operations Evaluation	600,000
12	(6) Beaufort Harbor Maintenance Dredging (Carteret County)	80,000
13	(7) Bogue Banks Shore Protection Study (Carteret County)	129,000
14	(8) Surf City/North Topsail Beach Protection Study	350,000
15	(9) West Onslow Beach (Topsail)	117,000
16	(10) Swan Quarter (Hyde County) Flood Control Dikes	100,000
17	(11) Hurricane Isabel Emergency Stream Cleanup – NE NC	2,000,000
18	(12) Cape Fear River Basin Water Management Study	161,000
19	(13) State Local Projects	3,339,000
20	(14) Lower Lockwoods Folly Dredging	336,000
21	(15) Currituck Sound Water Management Study	210,000
22	(16) Aquatic Weed Control, Lake Gaston and Statewide	275,000
23	(17) Deep Creek (Yadkin County) Water Management	2,000,000
24	(18) Neuse River Basin Feasibility Study	400,000
25	(19) Neuse Water and Sewer Project	3,500,000
26	(20) Silver Lake Harbor (Ocracoke, Hyde County)	280,000
27	(21) Far Creek Channel Maintenance	
28	(Engelhard, Hyde County)	120,000
29	(22) Walters Slough Maintenance Dredging	54,000
30	(23) Environmental Restoration Projects	700,000
31	(24) Projected Feasibility Studies	200,000
32	(25) Planning Assistance to Communities	95,000
33	TOTAL	\$27,446,000

34
 35 **SECTION 32.2.(b)** Where the actual costs are different from the estimated
 36 costs under subsection (a) of this section, the Department may adjust the allocations
 37 among projects as needed. If any projects funded under subsection (a) of this section
 38 are delayed, and the budgeted State funds cannot be used during the 2004-2005 fiscal
 39 year, or if the projects funded under subsection (a) of this section are accomplished at a
 40 lower cost, the Department may use the resulting fund availability to fund any of the
 41 following:

- 42 (1) Corps of Engineers project feasibility studies.
- 43 (2) Corps of Engineers projects whose schedules have advanced and
 44 require State-matching funds in fiscal year 2004-2005.
- 45 (3) State-local water resources development projects.

46 Funds not expended or encumbered for these purposes shall revert to the General Fund
 47 at the end of the 2005-2006 fiscal year.

48 **SECTION 32.2.(c)** The Department shall make semiannual reports on the
 49 use of these funds to the Joint Legislative Commission on Governmental Operations,
 50 the Fiscal Research Division, and the Office of State Budget and Management. Each
 51 report shall include all of the following:

- 52 (1) All projects listed in this section.
- 53 (2) The estimated cost of each project.
- 54 (3) The date that work on each project began or is expected to begin.

(4) The date that work on each project was completed or is expected to be completed.

(5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 32.2.(d) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2004-2005 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

Requested by: Senators Garrou, Dalton, Hagan

REPAIR AND RENOVATION RESERVE ALLOCATION

SECTION 32.3. Of the funds in the Reserve for Repairs and Renovations for the 2004-2005 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

Requested by: Senators Lucas, Swindell, Hunt, Garrou, Dalton, Hagan

RESTORE BOND FUNDS USED FOR MOLD REMEDIATION

SECTION 32.4. Of the funds appropriated by this act to the Reserve for Repairs and Renovations that is allocated to the Board of Governors of The University of North Carolina for the 2004-2005 fiscal year up to the sum of eight million nine hundred six thousand six hundred forty-two dollars (\$8,906,642) shall be allocated to North Carolina Central University to restore the bond funds that were transferred for mold remediation.

PART XXXII-A. REDUCE CORPORATE INCOME TAX

Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

REDUCE CORPORATE INCOME TAX

SECTION 32A.1. G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

(a) Tax. – A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%.

(b) Exemption. – Before computing the tax in subsection (a) of this section, a Corporation may subtract from State net income the applicable exemption amount. If the corporation is not required to apportion income to this State, the applicable exemption amount is the amount provided in the table below based on the corporation's State net income. If the corporation is required to apportion income to this State, the applicable exemption amount is the product of the corporation's apportionment fraction determined under G.S. 105-130.4(i) multiplied by the amount provided in the table below based on the corporation's State net income.

<u>State Net Income</u>	<u>Exemption Amount</u>
\$100,000 or less	\$25,000
Over \$100,000 through \$200,000	\$15,000
Over \$200,000	-0-

SECTION 32A.2. G.S. 115C-546.1(b) reads as rewritten:

"(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction or percentage provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000). All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

<u>Period</u>	<u>Fraction or Percentage</u>
10/1/97 to 9/30/98	One-fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty-ninths (2/29)
10/1/99 to 9/30/00	One-fourteenth (1/14)
10/1/00 to 9/30/05	Five sixty-ninths (5/69)
After 9/30/05	Seven and forty-three one-hundredths percent (7.43%)

SECTION 32A.3. G.S. 105-130.8(a)(5) reads as rewritten:

"(5) For purposes of this section, the amount exempted under G.S. 105-130.3(b), any income item deductible in determining State net income under the provisions of G.S. 105-130.5 ~~G.S. 105-130.5,~~ and any nonapportionable income not allocable to this State under the provisions of G.S. 105-130.4 ~~shall be~~ considered as income not taxable under this Part. The amount of the income item considered income not taxable under this Part is determined after subtracting related expenses for which a deduction was allowed under this Part."

SECTION 32A.4. Section 32A.1 and Section 32A.3 of this part become effective for taxable years beginning on or after January 1, 2005. The remainder of this part is effective when it becomes law.

PART XXXII-B. SALES TAX REFUNDS AND EXEMPTIONS

Requested by: Senators Kerr, Hoyle, Albertson, Garrou, Dalton, Hagan

SALES TAX REFUNDS AND EXEMPTIONS

SECTION 32B.1. G.S. 105-164.14(j) reads as rewritten:

"(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

(1) Refund. – The owner of an eligible facility is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the eligible facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after

1 the end of the State's fiscal year. Refunds applied for after the due date
2 are barred.

3 (2) Eligibility. – A facility is eligible under this subsection if it meets both
4 of the following conditions:

5 a. It is primarily engaged in one of the industries listed in this
6 subsection.

7 b. The Secretary of Commerce has certified that the owner of the
8 facility will invest at least ~~one hundred million dollars~~
9 ~~(\$100,000,000)~~ the required amount of private funds to ~~acquire,~~
10 ~~construct, and equip~~ construct the facility in this State. For the
11 purpose of this subsection, costs of construction may include
12 costs of acquiring and improving land for the facility and costs
13 of equipment for the facility. If the facility is located in an
14 enterprise tier one, two, or three area as defined in
15 G.S. 105-129.3, the required amount is fifty million dollars
16 (\$50,000,000). For all other facilities, the required amount is
17 one hundred million dollars (\$100,000,000).

18 (3) Industries. – This subsection applies to the following industries:

19 a. Aircraft manufacturing. Aircraft manufacturing means
20 manufacturing or assembling complete aircraft.

21 ~~a.b.~~ Bioprocessing. Bioprocessing means biomanufacturing or
22 processing that includes the culture of cells to make commercial
23 products, the purification of biomolecules from cells, or the use
24 of these molecules in manufacturing.

25 c. Motor vehicle manufacturing. Motor vehicle manufacturing
26 means any of the following:

27 1. Manufacturing complete automobiles and light-duty
28 motor vehicles.

29 2. Manufacturing heavy-duty truck chassis and assembling
30 complete heavy-duty trucks, buses, heavy-duty motor
31 homes, and other special purpose heavy-duty motor
32 vehicles for highway use.

33 3. Manufacturing complete military armored vehicles,
34 nonarmored military universal carriers, combat tanks,
35 and specialized components for combat tanks.

36 ~~b.d.~~ Pharmaceutical and medicine manufacturing and distribution of
37 pharmaceuticals and medicines. Pharmaceutical and medicine
38 manufacturing means any of the following:

39 1. Manufacturing biological and medicinal products. For
40 the purpose of this sub-subdivision, a biological product
41 is a preparation that is synthesized from living organisms
42 or their products and used medically as a diagnostic,
43 preventive, or therapeutic agent. For the purpose of this
44 sub-subdivision, bacteria, viruses, and their parts are
45 considered living organisms.

46 2. Processing botanical drugs and herbs by grading,
47 grinding, and milling.

48 3. Isolating active medicinal principals from botanical
49 drugs and herbs.

50 4. Manufacturing pharmaceutical products intended for
51 internal and external consumption in forms such as
52 ampoules, tablets, capsules, vials, ointments, powders,
53 solutions, and suspensions.

e. Semiconductor manufacturing. Semiconductor manufacturing means development and production of semiconductor material, devices, or components.

- (4) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this subsection with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

SECTION 32B.2. G.S. 105-164.13 reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at ~~retail, retail and the use, storage~~ storage, or consumption in this State of the following tangible personal property and services ~~is~~ are specifically exempted from the tax imposed by this Article:

...

- (1) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, and seeds sold to a farmer for agricultural purposes.

- ~~(45)~~ Sales of the following items to an interstate air business, or to a person that leases commercial aircraft to an interstate air business, of tangible personal property that becomes a component part of or is dispensed as a lubricant into commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this subdivision, commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages. passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories.

- ~~(49a)~~ Delivery charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

- ~~(53)~~ Sales to a professional land surveyor of tangible personal property on which custom aerial survey data is stored in digital form or is depicted in graphic form. Data is custom if it was created to the specifications of the professional land surveyor purchasing the property. A professional land surveyor is a person licensed as a surveyor under Chapter 89C of the General Statutes."

SECTION 32B.3. G.S. 105-164.3 is amended by adding two new subdivisions to read:

- ~~(14c)~~ Interstate air business. – An interstate air courier, an interstate freight air carrier, or an interstate passenger air carrier.

- ~~(15b)~~ Interstate freight air carrier. – A person whose primary business is scheduled freight air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

1 (9) Research university. – An institution of higher education that meets
2 one or both of the following conditions:

3 a. It is classified as one of the following in the most recent edition
4 of 'A Classification of Institutions of Higher Education', the
5 official report of The Carnegie Foundation for the
6 Advancement of Teaching:

- 7 1. Doctoral/Research Universities, Extensive or Intensive.
- 8 2. Masters Colleges and Universities, I or II.
- 9 3. Baccalaureate Colleges, Liberal Arts or General.

10 b. It is a constituent institution of The University of North
11 Carolina.

12 (10) Small business. – A business whose annual receipts, combined with
13 the annual receipts of all related persons, for the applicable period of
14 measurement did not exceed one million dollars (\$1,000,000).

15 **"§ 105-129.51. Administration; sunset.**

16 (a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the
17 requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health
18 insurance, environmental impact, and safety and health programs, respectively.

19 (b) This Article is repealed for taxable years beginning on or after January 1,
20 2014.

21 (c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10
22 are exclusive. A taxpayer may elect to take only one of the three credits with respect to
23 its research activities in a taxable year. It may elect a different credit for different
24 expenses in a subsequent taxable year.

25 **"§ 105-129.52. Tax election; cap.**

26 (a) Tax Election. – The credit allowed in this Article is allowed against the
27 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4
28 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed
29 when filing the return on which the credit is first claimed. This election is binding. Any
30 carryforwards of a credit must be claimed against the same tax.

31 (b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of
32 the amount of tax against which it is claimed for the taxable year, reduced by the sum of
33 all other credits allowed against that tax, except tax payments made by or on behalf of
34 the taxpayer. This limitation applies to the cumulative amount of credit, including
35 carryforwards, claimed by the taxpayer under this Article against each tax for the
36 taxable year. Any unused portion of a credit allowed in this Article may be carried
37 forward for the succeeding 15 years.

38 **"§ 105-129.53. Substantiation.**

39 To claim a credit allowed by this Article, the taxpayer must provide any information
40 required by the Secretary. Every taxpayer claiming a credit under this Article must
41 maintain and make available for inspection by the Secretary any records the Secretary
42 considers necessary to determine and verify the amount of the credit to which the
43 taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the
44 credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to
45 maintain adequate records or to make them available for inspection.

46 **"§ 105-129.54. Reports.**

47 The Department of Revenue must report to the Revenue Laws Study Committee and
48 to the Fiscal Research Division of the General Assembly by May 1 of each year the
49 following information for the 12-month period ending the preceding December 31:

50 (1) The number of taxpayers that claimed a credit allowed in this Article,
51 itemized by the categories of small business, low-tier, other, and
52 university research.

53 (2) The amount of each credit claimed in each category.

54 (3) The total cost to the General Fund of the credits claimed.

55 **"§ 105-129.55. Credit for North Carolina research and development.**

1 (a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified
 2 North Carolina research expenses for the taxable year is allowed a credit equal to a
 3 percentage of the expenses, determined as provided in this subsection. If part of the
 4 taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of
 5 this subsection and the remainder qualifies under subdivision (3) of this subsection, the
 6 applicable percentages apply separately to each part of the expenses.

7 (1) Small business. – If the taxpayer was a small business as of the last
 8 day of the taxable year, the applicable percentage is three percent
 9 (3%).

10 (2) Low-tier research. – For expenses with respect to research performed
 11 in an enterprise tier one, two, or three area, the applicable percentage is
 12 three percent (3%).

13 (3) Other research. – For expenses not covered under subdivision (1) or
 14 (2) of this subsection, the percentages provided in the table below
 15 apply to the taxpayer's qualified North Carolina research expenses
 16 during the taxable year at the following levels:

<u>Expenses Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$50 million</u>	<u>1%</u>
<u>\$50 million</u>	<u>\$200 million</u>	<u>2%</u>
<u>\$200 million</u>	<u>–</u>	<u>3%</u>

21 (b) North Carolina University Research Expenses. – A taxpayer that has North
 22 Carolina university research expenses for the taxable year is allowed a credit equal to
 23 fifteen percent (15%) of the expenses."

24 **SECTION 32D.3.** G.S. 105-259(b) is amended by adding a new subdivision
 25 to read:

26 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
 27 who has access to tax information in the course of service to or employment by the State
 28 may not disclose the information to any other person unless the disclosure is made for
 29 one of the following purposes:

30 ...
 31 (30) To publish the information required under G.S. 105-129.54 and to
 32 prove that a business does not meet the definition of 'small business'
 33 under Article 3F of this Chapter because the annual receipts of the
 34 business, combined with the annual receipts of all related persons,
 35 exceeds the applicable amount."

36 **SECTION 32D.4.** This part becomes effective for taxable years beginning
 37 on or after January 1, 2005.

38
 39 **PART XXXII-E. ESCHEAT FUND INVESTMENTS**

40
 41 Requested by: Senators Hoyle, Kerr, Garrou, Dalton, Hagan

42 **ESCHEAT FUND INVESTMENTS**

43 **SECTION 32E.1.** G.S. 147-69.2(b) reads as rewritten:

44 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds
 45 enumerated in subsection (a) of this section in excess of the amount required to meet the
 46 current needs and demands on such funds, selecting from among the following:

47 ...
 48 (11) With respect to assets of the Escheat Fund, notwithstanding the
 49 provisions of Chapter 116B of the General Statutes, obligations of the
 50 North Carolina Global TransPark Authority authorized by
 51 G.S. 63A-4(a)(22), not to exceed twenty-five million dollars
 52 (\$25,000,000), that have a final maturity not later than September 1,
 53 2004. The obligations shall bear interest at the rate set by the State
 54 Treasurer. No commitment to purchase obligations may be made
 55 pursuant to this subdivision after September 1, 1993, and no

obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

(12) With respect to assets of the Escheat Fund and the Escheat Account, notwithstanding the provisions of Chapter 116B of the General Statutes, the following investments, not to exceed the greater of one hundred million dollars (\$100,000,000) or twenty percent (20%) of the total combined value of the Escheat Fund and the Escheat Account at the time the investment is made:

- a. Limited partnership interests in a partnership, interests in a limited liability company, or stock in a corporation, if the primary purpose of the partnership, limited liability company, or corporation is to invest in public or private debt, public or private equity, or corporate buyout transactions within or outside the United States.
- b. Obligations guaranteed in whole or in part by the Small Business Administration to businesses in North Carolina. Investment in the obligations of a single business and its affiliates under this sub-subdivision is limited to two hundred fifty thousand dollars (\$250,000) in the aggregate.
- c. Issuing letters of credit to provide credit enhancements for loans made by banks to businesses in North Carolina, not to exceed in the aggregate the greater of twenty-five million dollars (\$25,000,000) or five percent (5%) of the total combined value of the Escheat Fund and the Escheat Account at the time the letter is issued.

In exercising fiduciary duty to evaluate possible investments under this subdivision, the State Treasurer may consider, without diminishing the obligation to invest funds for the benefit of worthy and needy students, the potential economic benefits to the State of such an investment. The State Treasurer shall report to the General Assembly annually regarding the investments made under this subdivision."

SECTION 32E.2. This part is effective when it becomes law.

PART XXXII-F. INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS

Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan, Rand
INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS

SECTION 32F.1. G.S. 58-58-86 reads as rewritten:

"§ 58-58-86. Insurable interest of charitable organizations.

(a) If an organization described in section 501(c)(3) of the Internal Revenue Code- Code, or an entity, purchases or receives by assignment, before, on, or after the effective date of this section, life insurance on an insured who consents in writing to the purchase or assignment, the organization or entity is deemed to have an insurable interest in the insured person's life.

(b) For the purposes of this section, an "entity" is any trust, business trust, partnership, corporation, limited liability company, or similar entity approved in writing by the insured as the beneficiary in, and owner of, a life insurance policy and annuity contract on the life of the insured subject to each of the following requirements:

- (1) The entity is formed for the purpose, in part, of generating funds for the benefit of one or more charitable organizations described in section

1 501(c)(3) of the Internal Revenue Code that are, prior to the time of
 2 the purchase, designated in writing by the consenting insured.

3 (2) The payments to the entity under the annuity contracts must be
 4 reasonably anticipated to fund the premiums on the life insurance
 5 policies for the second and succeeding years.

6 (3) Either (i) each benefited charitable organization described in section
 7 501(c)(3) of the Internal Revenue Code that is designated in writing by
 8 the consenting insured provides an affidavit to the entity stating that
 9 the organization has been in existence for at least three years and has
 10 assets of at least five million dollars (\$5,000,000) or (ii) the consenting
 11 insured provides an affidavit to the entity stating that the insured is an
 12 accredited investor as defined in Rule 501 of Regulation D under the
 13 Securities Act of 1933, as amended.

14 (4) The consenting insured provides an affidavit to the entity stating that
 15 neither the consenting insured, any relative, as that term is defined in
 16 G.S. 39-23.1(11), of the consenting insured, nor any entity controlled
 17 by the consenting insured or any relative of the consenting insured
 18 other than a charitable organization described in section 501(c)(3) of
 19 the Internal Revenue Code, received any monetary remuneration or
 20 other consideration whatsoever in connection with the consenting
 21 insured's consent to purchase the combination of a life insurance
 22 policy and annuity contract.

23 (5) Prior to the ownership or purchase of the combination of a life
 24 insurance policy and annuity contract on the consenting insured, each
 25 consenting insured and benefited organization described in section
 26 501(c)(3) of the Internal Revenue Code is provided a written
 27 description of the minimum percentage or amount of the life insurance
 28 proceeds that is reasonably anticipated to be paid to the benefited
 29 charitable organization."

30 **SECTION 32F.2.** This part is effective when it becomes law.

31 **PART XXXII-G. JOB DEVELOPMENT INVESTMENT GRANT PROGRAM**

32 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

33 **JOB DEVELOPMENT INVESTMENT GRANT PROGRAM**

34 **SECTION 32G.1.(a)** G.S. 143B-437.62 reads as rewritten:

35 **"§ 143B-437.62. Authority, Expiration.**

36 The authority of the Committee to enter into new agreements ~~begins January 1,~~
 37 ~~2003, and expires January 1, 2005-2006."~~

38 **SECTION 32G.1.(b)** G.S. 143B-437.52(b) reads as rewritten:

39 "(b) Cap. – The maximum number of agreements the Committee may enter into
 40 each calendar year is ~~15-25."~~

41 **SECTION 32G.1.(c)** G.S. 143B-437.52(c) reads as rewritten:

42 "(c) Ceiling. – The maximum amount of total annual liability for grants for
 43 agreements entered into in any single calendar year may not exceed ~~ten million dollars~~
 44 ~~(\$10,000,000)-fifteen million dollars (\$15,000,000). No agreement may be entered into~~
 45 that, when considered together with other existing agreements entered into during that
 46 calendar year, could cause the State's potential total annual liability for grants entered
 47 into in that calendar year to exceed this amount."

48 **SECTION 32G.1.(d)** G.S. 143B-437.58(a) reads as rewritten:

49 "(a) No later than ~~February~~ March 1 of each year, for the preceding grant year,
 50 every business that is awarded a grant under this Part shall submit to the Committee a
 51 ~~copy of its State and federal tax returns showing business and nonbusiness income and a~~
 52 report showing withholdings as a condition of its continuation in the grant program. In
 53 addition, the business shall submit to the Committee an annual payroll report showing
 54
 55

1 the eligible positions that are created during the base years and the new eligible
2 positions created during each subsequent year of the grant. Upon request of the
3 Committee, the business shall also submit a copy of its State and federal tax returns.
4 Payroll and tax information submitted under this subsection is tax information subject to
5 G.S. 105-259. When making a submission under this section, the business must pay the
6 Committee a fee of one thousand five hundred dollars (\$1,500). The fee is due at the
7 time the submission is made. The Secretary of Commerce, the Secretary of Revenue,
8 and the Director of the Office of State Budget and Management shall determine the
9 allocation of the fee imposed by this section among their agencies. The proceeds of the
10 fee are receipts of the agency to which they are credited."

11 **SECTION 32G.1.(e)** G.S. 143B-437.52(d) reads as rewritten:

12 "(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this
13 section and G.S. 143B-437.57(a)(11), the Committee may designate that the increase or
14 maintenance of employment is measured at the level of a division or another operating
15 unit of a business, rather than at the business level, if both of the following conditions
16 are met:

- 17 (1) The Committee makes an explicit finding that the designation is
18 necessary to secure the project in this State.
- 19 (2) The designation contains terms to ensure that the business does not
20 create eligible positions by transferring or shifting to the project
21 existing positions from another project of the business or a related
22 ~~entity member~~ of the business."

23 **SECTION 32G.1.(f)** G.S. 143B-437.57 is amended by adding a new
24 subsection to read:

25 "(c) Agreement Binding. – A community economic development agreement is a
26 binding obligation of the State and is not subject to State funds being appropriated by
27 the General Assembly."

28 **SECTION 32G.1.(g)** G.S. 143B-437.57(a) is amended by adding a new
29 subdivision to read:

30 "(a) Terms. – Each community economic development agreement shall include at
31 least the following:

- 32 ..
- 33 (25) A provision encouraging the business to contract with small businesses
34 headquartered in the State for goods and services."

35 **SECTION 32G.1.(h)** It is the intent of the General Assembly that the
36 benefits of a robust and growing economy be shared by all citizens of the State
37 regardless of their geographic location or whether they live in urban, suburban, or rural
38 areas. In striving for balanced economic development throughout the State, the General
39 Assembly has designed a system to identify areas of the State that are most in need of
40 additional economic development and has designed economic development programs to
41 provide for relatively stronger incentives in those areas. In keeping with this policy of
42 balanced economic development, the General Assembly strongly encourages the
43 Department of Commerce and the Economic Investment Committee to give priority
44 consideration under the Job Development Investment Grant program to projects that are
45 located or will locate in less economically developed areas.

46 **SECTION 32G.1.(i)** Subsections (d) and (f) of this section are effective on
47 and after October 31, 2002. Subsection (c) of this section becomes effective January 1,
48 2005, and applies to agreements entered into on or after that date. Subsection (g) of this
49 Part is effective when it becomes law and applies to agreements entered into on or after
50 that date. The remainder of this section is effective when it becomes law.

51 **PART XXXIII. MISCELLANEOUS PROVISIONS**

52 Requested by: Senators Garrou, Dalton, Hagan
53 **EXECUTIVE BUDGET ACT APPLIES**

1 **SECTION 33.1.** The provisions of the Executive Budget Act, Chapter 143,
2 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
3 and are incorporated in this act by reference.

4
5 Requested by: Senators Garrou, Dalton, Hagan

6 **COMMITTEE REPORT**

7 **SECTION 33.2.(a)** The Senate Appropriations/Base Budget Committee
8 Report on the Continuation, Expansion and Capital Budgets, dated June 22, 2004, which
9 was distributed in the Senate and used to explain this act, shall indicate action by the
10 General Assembly on this act and shall therefore be used to construe this act, as
11 provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be
12 considered a part of this act and as such shall be printed as a part of the Session Laws.

13 **SECTION 33.2.(b)** The budget enacted by the General Assembly for the
14 maintenance of the various departments, institutions, and other spending agencies of the
15 State for the 2004-2005 fiscal year is a line-item budget, in accordance with the Budget
16 Code Structure and the State Accounting System Uniform Chart of Accounts set out in
17 the Administrative Policies and Procedures Manual of the Office of the State Controller.
18 This budget includes the appropriations made from all sources including the General
19 Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental
20 receipts.

21 The General Assembly amended the requested adjustments to the budgets
22 submitted to the General Assembly by the Director of the Budget in accordance with the
23 steps that follow and the line-item detail in the budget enacted by the General Assembly
24 may be derived accordingly:

- 25 (1) The base budget was adjusted in accordance with the base budget cuts
26 and additions that were set out in the Senate Appropriations/Base
27 Budget Committee Report on the Continuation, Expansion and Capital
28 Budgets.
29 (2) Transfers of funds supporting programs were made in accordance with
30 the Senate Appropriations/Base Budget Committee Report on the
31 Continuation, Expansion and Capital Budgets.

32 **SECTION 33.2.(c)** The budget enacted by the General Assembly shall also
33 be interpreted in accordance with the special provisions in this act and in accordance
34 with other appropriate legislation.

35 In the event that there is a conflict between the line-item budget certified by
36 the Director of the Budget and the budget enacted by the General Assembly, the budget
37 enacted by the General Assembly shall prevail.

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39 Requested by: Senators Garrou, Dalton, Hagan

40 **MOST TEXT APPLIES ONLY TO 2004-2005**

41 **SECTION 33.3.** Except for statutory changes or other provisions that clearly
42 indicate an intention to have effects beyond the 2004-2005 fiscal year, the textual
43 provisions of this act apply only to funds appropriated for, and activities occurring
44 during, the 2004-2005 fiscal year.

45
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47 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

48 **SECTION 33.3A.(a)** Except where expressly repealed or amended by this
49 act, the provisions of S.L. 2003-283 and S.L. 2003-284 remain in effect.

50 **SECTION 33.3A.(b)** Notwithstanding any modifications by this act in the
51 amounts appropriated, except where expressly repealed or amended, the limitations and
52 directions for the 2004-2005 fiscal year in S.L. 2003-283 and S.L. 2003-284 that
53 applied to appropriations to particular agencies or for particular purposes apply to the
54 newly enacted appropriations and budget reductions of this act for those same particular
55 purposes.

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2 Requested by: Senators Garrou, Dalton, Hagan

3 **EFFECT OF HEADINGS**

4 **SECTION 33.4.** The headings to the parts and sections of this act are a
5 convenience to the reader and are for reference only. The headings do not expand,
6 limit, or define the text of this act, except for effective dates referring to a Part.

7
8 Requested by: Senators Garrou, Dalton, Hagan

9 **SEVERABILITY CLAUSE**

10 **SECTION 33.5.** If any section or provision of this act is declared
11 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
12 whole or any part other than the part so declared to be unconstitutional or invalid.

13
14 Requested by: Senators Garrou, Dalton, Hagan

15 **EFFECTIVE DATE**

16 **SECTION 33.6.** Except as otherwise provided, this act becomes effective
17 July 1, 2004.